572-B

code of federal regulations

Agriculture

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7

PARTS 300 TO 399
Revised as of January 1, 1986

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code of federal regulations

Agriculture

7

PARTS 300 TO 399

Revised as of January 1, 1986

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AS OF JANUARY 1, 1986

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thus: **7 CFR 300.1**

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Explanation

The Code of Federal Regulations is a codification of the general and permanent rules published in the Federal Register by the Executive departments and agencies of the Federal Government. The Code is divided into 50 titles which represent broad areas subject to Federal regulation. Each title is divided into chapters which usually bear the name of the issuing agency. Each chapter is further subdivided into parts covering specific regulatory areas.

ISSUE DATES

Each volume of the Code is revised at least once each calendar year and issued on a quarterly basis approximately as follows:

Title 1 through Title 16	as of January 1
Title 17 through Title 27	as of April 1
Title 28 through Title 41	as of July 1
Title 42 through Title 50	as of October 1

The appropriate revision date is printed on the cover of each volume.

LEGAL STATUS

The contents of the Federal Register are required to be judicially noticed (44 U.S.C. 1507). The Code of Federal Regulations is prima facie evidence of the text of the original documents (44 U.S.C. 1510).

HOW TO USE THE CODE OF FEDERAL REGULATIONS

The Code of Federal Regulations is kept up to date by the individual issues of the Federal Register. These two publications must be used together to determine the latest version of any given rule.

To determine whether a Code volume has been amended since its revision date (in this case, January 1, 1986), consult the "List of CFR Sections Affected (LSA)," which is issued monthly, and the "Cumulative List of Parts Affected," which appears in the Reader Aids section of the daily Federal Register. These two lists will identify the Federal Register page number of the latest amendment of any given rule.

EFFECTIVE AND EXPIRATION DATES

Each volume of the Code contains amendments published in the Federal Register since the last revision of that volume of the Code. Source citations for the regulations are referred to by volume number and page number of the Federal Register and date of publication. Publication dates and effective dates are usually not the same and care must be exercised by the user in determining the actual effective date. In instances where the effective date is beyond the cut-off date for the Code a note has been inserted to reflect the future effective date. In those instances where a regulation published in the Federal Register states a

date certain for expiration, an appropriate note will be inserted following the text.

OMB CONTROL NUMBERS

The Paperwork Reduction Act of 1980 (Pub. L. 96-511) requires Federal agencies to display an OMB control number with their information collection request. Many agencies have begun publishing numerous OMB control numbers as amendments to existing regulations in the CFR. These OMB numbers are placed as close as possible to the applicable recordkeeping or reporting requirements.

OBSOLETE PROVISIONS

Provisions that become obsolete before the revision date stated on the cover of each volume are not carried. Code users may find the text of provisions in effect on a given date in the past by using the appropriate numerical list of sections affected. For the period before January 1, 1973, consult either the List of CFR Sections Affected, 1949-1963, or 1964-1972, published in three separate volumes. For the period beginning January 1, 1973, a "List of CFR Sections Affected" is published at the end of each CFR volume.

INCORPORATION BY REFERENCE

What is incorporation by reference? **Incorporation by reference was established by statute and allows Federal agencies to meet the requirement to publish regulations in the Federal Register by referring to materials already published elsewhere. For an incorporation to be valid, the Director of the Federal Register must approve it. The legal effect of incorporation by reference is that the material is treated as if it were published in full in the Federal Register (5 U.S.C. 552(a)). This material, like any other properly issued regulation, has the force of law.**

What is a proper incorporation by reference? **The Director of the Federal Register will approve an incorporation by reference only when the requirements of 1 CFR Part 51 are met. Some of the elements on which approval is based are:**

(a) The incorporation will substantially reduce the volume of material published in the Federal Register.

(b) The matter incorporated is in fact available to the extent necessary to afford fairness and uniformity in the administrative process.

(c) The incorporating document is drafted and submitted for publication in accordance with 1 CFR Part 51.

Properly approved incorporations by reference in this volume are listed in the Finding Aids at the end of this volume.

What if the material incorporated by reference cannot be found? **If you have any problem locating or obtaining a copy of material listed in the Finding Aids of this volume as an approved incorporation by reference, please contact the agency that issued the regulation containing that incorporation. If, after contacting the agency, you find the material is not available, please notify the Director of the Federal Register, National Archives and Records Administration, Washington DC 20408, or call (202) 523-4534.**

CFR INDEXES AND TABULAR GUIDES

A subject index to the Code of Federal Regulations is contained in a separate volume, revised annually as of January 1, entitled CFR INDEX AND FINDING AIDS. This volume contains the Parallel Table of Statutory Authorities and Agency Rules (Table I), and Acts Requiring Publication in the Federal Register (Table

III). A list of CFR Titles, Chapters, and Parts and an alphabetical list of agencies publishing in the CFR are also included in this volume.

An index to the text of "Title 3—The President" is carried within that volume.

The Federal Register Index is issued monthly in cumulative form. This index is based on a consolidation of the "Contents" entries in the daily Federal Register.

A List of CFR Sections Affected (LSA) is published monthly, keyed to the revision dates of the 50 CFR titles.

REPUBLICATION OF MATERIAL

There are no restrictions on the republication of material appearing in the Code of Federal Regulations.

INQUIRIES AND SALES

For a summary, legal interpretation, or other explanation of any regulation in this volume, contact the issuing agency. Inquiries concerning editing procedures and reference assistance with respect to the Code of Federal Regulations may be addressed to the Director, Office of the Federal Register, National Archives and Records Administration, Washington, D.C. 20408 (telephone 202-523-3517). Sales are handled exclusively by the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402 (telephone 202-783-3238).

JOHN E. BYRNE,
Director,
Office of the Federal Register.

January 2, 1986.

THIS TITLE

Title 7—AGRICULTURE is composed of sixteen volumes. The parts in these volumes are arranged in the following order: Parts 0-45, Parts 46-51, Part 52, Parts 53-209, Parts 210-299, Parts 300-399, Parts 400-699, Parts 700-899, Parts 900-999, Parts 1000-1059, Parts 1060-1119, Parts 1120-1199, Parts 1200-1499, Parts 1500-1899, Parts 1900-1944, and Part 1945-End. The contents of these volumes represent all current regulations codified under this title of the CFR as of January 1, 1986.

An alphabetical list of U.S. standards for grades of processed fruits, vegetables and certain other products appears in the Finding Aids section of the volume containing Part 52.

The Food and Nutrition Service current regulations in the volume containing Parts 210-299, include the Child Nutrition Programs and the Food Stamp Program. The regulations of the Federal Crop Insurance Corporation are found in the volume containing Parts 400-699.

All marketing agreements and orders for fruits, vegetables and nuts appear in the volume containing Parts 900-999. All marketing agreements and orders for milk appear in the three volumes containing Parts 1000-1199. Part 900—General Regulations is carried as a note in each of the three volumes containing Parts 1000-1199, and Part 1000—General Provisions of Federal Milk Marketing Orders is carried as a note in each of the two volumes containing Parts 1060-1199, as a convenience to the user.

For this volume Lygia W. Thomas was Chief Editor. The Code of Federal Regulations publication program is under the direction of Martha B. Girard, assisted by Robert E. Jordan.

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Title 7—Agriculture

(This book contains Parts 300 to 399)

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Part

CHAPTER III—Animal and Plant Health Inspection Service, Department of Agriculture 300

Subtitle B—Regulations of the Department of Agriculture—Continued

CHAPTER III—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

Editorial Note: Nomenclature changes to Chapter III appear at 36 FR 24917, Dec. 24, 1971.

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300.2 Availability of material incorporated.
300.3 List of materials incorporated.

AUTHORITY: 7 U.S.C. 150ee (71 Stat. 33) 7 U.S.C. 161 (44 Stat. 250).

SOURCE: 43 FR 26412, June 20, 1978, unless otherwise noted.

§ 300.1 Statement of incorporation.

The Animal and Plant Health Inspection Service incorporates by reference in the FEDERAL REGISTER the materials listed in § 300.3 of this part for use in Title 7 of the Code of Federal Regulations. The materials are incorporated as they exist on the date of incorporation. Notice of changes will be published periodically in the FEDERAL REGISTER.

§ 300.2 Availability of material incorporated.

Materials incorporated by reference in § 300.3 of this part are available for inspection at the following locations:

Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 635, Federal Building, Hyattsville, Md. 20782.

Office of the Federal Register Library, 1100 L Street NW., Room 8401, Washington, DC 20408.

Copies may be obtained by writing to the Regulatory Support Staff, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 635 Federal Building, Hyattsville, Md. 20782.

§ 300.3 List of materials incorporated.

(a) Plant Protection and Quarantine Programs Treatment Manual.

(b) Japanese Beetle Program Manual.

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Subpart—Black Stem Rust

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AUTHORITY: Secs. 8, 9, 37 Stat. 318, secs. 103, 106, 71 Stat. 32, 33; 7 U.S.C. 150bb, 150ee, 161, 162; 37 FR 28464, Dec. 27, 1972; 38 FR 19141, July 18, 1973 as amended, unless otherwise noted.

Subpart—Black Stem Rust

SOURCE: 32 FR 18015, Dec. 16, 1967, unless otherwise noted.

QUARANTINE AND REGULATIONS

§ 301.38 Quarantine; restriction on interstate movement of specified regulated articles.

(a) *Notice of quarantine.* Pursuant to the provisions of section 8 of the Plant Quarantine Act of August 20, 1912, as amended, and section 106 of the Federal Plant Pest Act (7 U.S.C. 161, 150ee), the Secretary of Agriculture heretofore determined, after public hearing, that it was necessary to quarantine all States within the conterminous United States and the District of Columbia in order to prevent the spread of black stem rust (Puccinia graminis), a dangerous plant disease of small grains, and accordingly quarantined said States and District. Under the authority of said provisions, the Secretary hereby continues such quarantine in effect with respect to the interstate movement from the quarantined States and the District of the articles described in paragraph (b) of this section, issues the regulations in this subpart governing such movement, and gives notice of said quarantine and regulations.

(b) *Quarantine restrictions on interstate movement of specified regulated articles.* No common carrier or other person shall move interstate from any quarantined State or District of the United States any of the following articles (defined in § 301.38–1(l) as regulated articles), except in accordance with the conditions prescribed in this subpart: All plants, seeds, fruits, and other parts of plants which are capable of propagation, and belong in the genera Berberis, Mahoberberis, or Mahonia, except Mahonia cuttings for decorative purposes.

§ 301.38–1 Definitions.

Terms used in the singular form in this subpart shall be deemed to import the plural, and vice versa, as the case may demand. The following terms, when used in this subpart, shall be construed respectively, to mean:

(a) *Black stem rust.* The disease commonly known as the black stem rust of grains (Puccinia graminis).

(b) *Certificate.* A document issued or authorized to be issued under this subpart by an inspector to allow the interstate movement of regulated articles to any destination.

(c) *Compliance agreements.* A written agreement between a person engaged in growing, handling, or moving regulated articles, and the Plant Protection and Quarantine Programs, wherein the former agrees to comply with the requirements of this subpart identified in the agreement by the inspector who executes the agreement on behalf of the Plant Protection and Quarantine Programs as applicable to the operations of such person.

(d) *Deputy Administrator.* The Deputy Administrator of the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or any other officer or employee of said Service to whom authority to act in his stead has been or may hereafter be delegated.

(e) *Eradication area.* Any quarantined State or District, or portion of a State or District, listed as an eradication area in § 301.38–2a by the Deputy Administrator in accordance with § 301.38–2.

(f) *Inspector.* Any employee of the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or other person, authorized by the Deputy Administrator to enforce the provisions of the quarantine and regulations in this subpart.

(g) *Interstate.* From any State, Territory, or District of the United States into or through any other State, Territory, or District of the United States (including Puerto Rico).

(h) *Limited permit.* A document issued or authorized to be issued by an inspector to allow the interstate movement of noncertified regulated articles to a specified destination for limited handling or utilization.

(i) *Moved (movement, move).* Shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved or allowed to be moved by any means. "Movement" and "move" shall be construed accordingly.

(j) *One year's growth.* The growth of a plant during all growing seasons of any calendar year.

(k) *Person.* Any individual, corporation, company, society, or association, or other organized group of any of the foregoing.

(l) *Regulated articles.* Any articles described in § 301.38(b).

(m) *Restricted destination permit.* A document issued or authorized to be issued by an inspector to allow the interstate movement of regulated articles not certified under all applicable Federal domestic plant quarantines to a specified destination for other than scientific purposes.

(n) *Rust-resistant plants.* Berberis, Mahoberberis, and Mahonia plants listed as rust-resistant by the Deputy Administrator in the "Manual of Administratively Authorized Procedures to be Used Under the Black Stem Rust Quarantine".[1]

(o) *Scientific permit.* A document issued by the Deputy Administrator to allow the interstate movement to a specified destination of regulated articles for scientific purposes.

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[1] A pamphlet containing a list of rust-resistant plants is available, upon request, from the Deputy Administrator of the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250, or from an inspector.

(p) *Seedlings.* Any plant grown from seed within the genus Berberis of less than 2 years' growth.

(q) *Treatment manual.* The provisions currently contained in the "Manual of Administratively Authorized Procedures To Be Used Under the Black Stem Rust Quarantine" and any amendments thereto.[2]

(r) *Two years' growth.* The growth of a plant during all growing seasons of 2 successive calendar years.

[32 FR 18015, Dec. 16, 1967, as amended at 35 FR 2859, Feb. 12, 1970; 36 FR 24917, Dec. 24, 1971; 37 FR 10554, May 25, 1972]

§ 301.38–2 Authorization for Deputy Administrator to list eradication areas.

The Deputy Administrator shall list as eradication areas in a supplemental regulation designated as § 301.38–2a, the quarantined States or Districts, or portions of States or Districts, which have adopted and are enforcing specific procedures to eradicate Berberis, Mahoberberis, and Mahonia plants susceptible to black stem rust, in cooperation with the Plant Protection and Quarantine Programs; and shall amend such list from time to time as the facts warrant.

§ 301.38–2a Eradication areas.

The States, or portions of States, designated below have adopted and are enforcing specific procedures to eradicate Berberis, Mahoberberis, and Mahonia plants susceptible to black stem rust in cooperation with the Plant Protection and Quarantine Programs. Therefore, such States, or portions of States, are designated as eradication areas within the meaning of the provisions of this subpart:

All counties within the States of: Colorado, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Montana, Nebraska, North Dakota, Ohio, South Dakota, West Virginia, Wisconsin, Wyoming.

All portions of the following States except the counties and cities specified:

Pennsylvania. Delaware and Philadelphia Counties.

Virginia. Accomack, Amelia, Brunswick, Caroline, Charles City, Charlotte, Chesterfield, Cumberland, Dinwiddie, Elizabeth City, Essex, Gloucester, Goochland, Greensville, Halifax, Hanover, Henrico, Henry, Isle of Wight, James City, King and Queen, King George, King William, Lancaster, Lunenburg, Matthews, Mecklenburg, Middlesex, Nansemond, New Kent, Northampton, Northumberland, Nottoway, Patrick, Pittsylvania, Powhatan, Prince Edward, Prince George, Richmond, Southampton, Sussex, Surry, Warwick, Westmoreland, and York Counties; and, the cities of Norfolk and Virginia Beach.

Washington. Clallam, Clark, Cowlitz, Grays Harbor, Island, Jefferson, King, Kitsap, Lewis, Mason, Pacific, Pierce, San Juan, Skagit, Skamania, Snohomish, Thurston, Wahkiakum, and Whatcom Counties.

[32 FR 18017, Dec. 16, 1967, as amended at 35 FR 2859, Feb. 12, 1970; 36 FR 24917 Dec. 24, 1971; 37 FR 10554, May 25, 1972]

§ 301.38–3 Conditions governing the interstate movement of regulated articles from quarantined States.[3]

The following regulated articles may be moved interstate from a quarantined State or District under this subpart if all of the applicable conditions as specified below have been fulfilled and if certificates or permits are issued and attached in accordance with §§ 301.38–4 and 301.38–7:

(a) ***Rust-resistant Berberis, Mahoberberis, and Mahonia plants.*** (1) Seedlings of rust-resistant Berberis plants may be moved interstate if accompanied by a permit, to any destination authorized by such permit.

(2) Rust-resistant Berberis plants of at least 2 years' growth, Mahoberberis and Mahonia plants, and cuttings taken from such plants, may be moved interstate to any destination if an inspector determines that the plants and cuttings are true to type and if the plants and cuttings are accompanied by a certificate or permit.

(b) ***Seeds and fruits of rust-resistant Berberis plants.*** (1) Seeds and fruits of rust-resistant Berberis plants originating within an eradication area may be moved interstate between eradication areas if accompanied by a permit.

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[2] A pamphlet containing such provisions is available, upon request, from the Deputy Administrator of the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250, or from an inspector.

[3] Requirements under all other applicable Federal domestic plant quarantines must also be met.

(2) Seeds and fruits of rust-resistant Berberis plants may be moved interstate between noneradication areas and from an eradication area to a noneradication area without further restriction under this subpart.

(c) *Seeds and fruits of rust-resistant Mahonia plants.* (1) Seeds and fruits of rust-resistant Mahonia plants originating within an eradication area may be moved interstate between eradication areas if accompanied by a permit.

(2) Seeds and fruits determined by an inspector to be from rust-resistant Mahonia plants originating in a noneradication area may be moved interstate from such an area into an eradication area if accompanied by a permit.

(3) Seeds and fruits of rust-resistant Mahonia plants may be moved interstate between noneradication areas and from an eradication area to a noneradication area without further restriction under this subpart.

(d) *Any regulated articles.* Any regulated articles may be moved to a specified destination authorized by the Deputy Administrator under a scientific permit.

§ 301.38-4 Issuance and cancellation of certificates and permits.

(a) Certificates may be issued for any regulated articles by an inspector if he determines that they are eligible for certification for movement to any destination under all Federal domestic plant quarantines applicable to such articles and upon examination they have been found to be free from evidence of black stem rust and to be rust-resistant.

(b) Limited permits may be issued by an inspector to allow interstate movement of regulated articles, not eligible for certification under this subpart, to specified destinations for limited handling or utilization, when upon evaluation of the circumstances involved in each specific case he determines that such movement will not result in the spread of the black stem rust and requirements of other applicable Federal domestic plant quarantines have been met.

(c) Restricted destination permits may be issued by an inspector to allow the interstate movement of regulated articles for other than scientific purposes to any destination permitted under all applicable Federal domestic plant quarantines, if such articles are not eligible for certification under all such quarantines, but would otherwise qualify for certification under this subpart.

(d) Scientific permits may be issued by the Deputy Administrator to allow the interstate movement of regulated articles for scientific purposes under such conditions as may be prescribed in each specific case by the Deputy Administrator.

(e) Certificate, limited permit, and restricted destination permit forms may be issued by an inspector to any person for use by the latter for subsequent shipments provided such person is operating under a compliance agreement; and any such person may be authorized by an inspector to reproduce such forms on shipping containers or otherwise. Any such person may use the certificate forms, or reproductions of such forms, for the interstate movement of regulated articles from the premises of such person identified in the compliance agreement if such person has made the determination specified in paragraph (a) of this section with respect to such articles. Any such person may use the limited permit forms, or reproductions of such forms, for interstate movement of regulated articles to specific destinations authorized by the inspector in accordance with paragraph (b) of this section. Any such person may use the restricted destination permit forms, or reproductions of such forms, for the interstate movement of regulated articles not eligible for certification under all Federal domestic plant quarantines applicable to such articles, under the conditions specified in paragraph (c) of this section.

(f) Any certificate or permit which has been issued or authorized may be withdrawn by the inspector if he determines that the holder thereof has not complied with any condition for the use of such document imposed by this subpart.

§ 301.38-5 Compliance agreements; and cancellation thereof.

(a) Any person engaged in the business of growing, handling, or moving regulated articles may enter into a compliance agreement to facilitate the movement of such articles under this subpart. Compliance agreement forms may be obtained from the Deputy Administrator or an inspector.

(b) Any compliance agreement may be canceled by the inspector who is supervising its enforcement whenever he finds, after notice and reasonable opportunity to present views has been accorded to the other party thereto, that such other party has failed to comply with the conditions of the agreement.

§ 301.38-6 Assembly and inspection of regulated articles.

Persons (other than those authorized to use certificates, limited permits, or restricted destination permits, or reproductions thereof, under § 301.38-4(e)) who desire to move interstate regulated articles which must be accompanied by a certificate or permit shall, as far in advance as possible, request an inspector to examine the articles prior to movement. Such articles shall be assembled at such points and in such manner as the inspector designates to facilitate inspection.

§ 301.38-7 Attachment and disposition of certificates or permits.

(a) If a certificate or permit is required for the interstate movement of regulated articles, the certificate or permit shall be securely attached to the outside of the container in which such articles are moved, except that, where the certificate or permit is attached to the waybill or other shipping document, and the regulated articles are adequately described on the certificate, permit, or shipping document, the attachment of the certificate or permit to each container of the articles is not required.

(b) In all cases, certificates or permits shall be furnished by the carrier to the consignee at the destination of the shipment.

§ 301.38-8 Inspection and disposal of regulated articles and pests.

Any properly identified inspector is authorized to stop and inspect, and to seize, destroy, or otherwise dispose of, or require disposal of regulated articles and black stem rust spores as provided in section 10 of the Plant Quarantine Act (7 U.S.C. 164a) and section 105 of the Plant Pest Act (7 U.S.C. 150dd), in accordance with instructions issued by the Deputy Administrator.

§ 301.38-9 Movement of black stem rust spores.

Regulations requiring a permit for, and otherwise governing the movement of black stem rust spores in interstate or foreign commerce, are contained in the Federal Plant Pest regulations in Part 330 of this chapter. Applications for the movement of such spores may be made to the Deputy Administrator.

§ 301.38-10 Nonliability of the Department.

The U.S. Department of Agriculture disclaims liability for any costs incident to inspections or compliance with provisions of the quarantine and regulations in this subpart, other than for the services of the inspector.

Subpart—Gypsy Moth and Browntail Moth

AUTHORITY: Secs. 8 and 9, 37 Stat. 318, as amended, secs. 105 and 106, 71 Stat. 32, 71 Stat. 33; 7 U.S.C. 161, 162, 150dd, 150ee; 37 FR 28464, 28477, as amended; 38 FR 19141, unless otherwise noted.

SOURCE: 45 FR 15510, Mar. 11, 1980, unless otherwise noted.

QUARANTINE AND REGULATIONS

§ 301.45 Notice of quarantine; restriction on interstate movement of specified regulated articles.

(a) *Notice of Quarantine.* Pursuant to the provisions of sections 8 and 9 of the Plant Quarantine Act of August 20, 1912, as amended, and sections 105 and 106 of the Federal Plant Pest Act (7 U.S.C. 161, 162, 150dd, 150ee), the Secretary of Agriculture hereby quarantines the States of Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Oregon, Pennsylvania, Rhode Island, Vermont, Virginia, Washington, and West Virginia in order to prevent the spread of the gypsy moth, *Lymantria dispar* (Linnaeus), and the States of Maine and Massachusetts in order to prevent the spread of the browntail moth, *Nygmia phaeorrhoea* (Donovan), dangerous insects injurious to forests and shade trees and not theretofore widely prevalent or distributed within or throughout the United States; and establishes regulations governing the interstate movement from the regulated areas of the quarantined States of the articles described in § 301.45-1(v).

(b) *Quarantine restrictions on interstate movement of regulated articles and outdoor household articles.* No common carrier or other person shall move interstate from any regulated area any regulated article and outdoor household articles except in accordance with the conditions prescribed in this subpart.

[45 FR 15510, Mar. 11, 1980, as amended at 46 FR 48628, Oct. 2, 1981; 47 FR 5191, Feb. 4, 1982; 48 FR 39601, Sept. 1, 1983; 49 FR 19961, May 11, 1984; 49 FR 38931, Oct. 2, 1984; 50 FR 13542, Apr. 5, 1985]

§ 301.45-1 Definitions.

Terms used in the singular form in this subpart shall be construed as the plural, and vice versa, as the case may demand. The following terms, when used in this subpart, shall be construed, respectively, to mean:

(a) *Associated equipment.* Articles associated with mobile homes and recreational vehicles, such as, but not limited to, awnings, tents, outdoor furniture, trailer blocks, and trailer skirts.

(b) *Browntail moth.* The live insect known as the browntail moth, *Nygmia phaeorrhoea* (Donovan), in any life stage of development (egg, larva, pupa, adult).

(c) *Certificate.* A document issued by the inspector, to allow the movement of regulated articles to any destination.

(d) *Compliance agreement.* A written agreement between a person engaged in growing, handling, or moving regulated articles, and the Plant Protection and Quarantine Programs, wherein the former agrees to comply with the requirements of the compliance agreement.

(e) *Defoliation.* A condition existing when at least 10 percent of the leaves are stripped from the trees in an area by gypsy moth larvae as determined by visual inspection of an inspector.

(f) *Deputy Administrator.* The Deputy Administrator of the Animal and Plant Health Inspection Service, U.S. Department of Agriculture for the Plant Protection and Quarantine Programs, or any other officer or employee of the Department to whom authority to act in his/her stead has been or may hereafter be delegated.

(g) *OHA document.* A document issued for the interstate movement of outdoor household articles by a qualified certified applicator which contains the following information:

(1) Name and address of mover of outdoor household article covered by the OHA document;

(2) Address where outdoor household article was inspected and/or treated;

(3) Destination address of outdoor household article;

(4) Identity of each outdoor household article covered by the OHA document;

(5) Date of inspection, and if applicable, date and type of treatment applied to outdoor household article and date OHA document expires;

(6) Statement by the qualified certified applicator who issued the OHA document that (i) he/she has inspected, or that the inspection was performed under his/her direct supervision, and any outdoor household article listed thereon was found to be free of any life stage of the gypsy moth, or (ii) that any such outdoor household article was treated by or under the direct supervision of the qualified certified applicator to destroy any life stage of gypsy moth, in accordance with the methods and procedures prescribed in the section III.C.5 of the Appendix to Subpart ("Treatment of Outdoor Household Articles"); and

(7) Name, address, signature and company name, if applicable, of the certified applicator issuing the OHA document.

(h) *Gypsy moth.* The live insect known as the gypsy moth, *Lymantria dispar* (Linnaeus), in any life stage (egg, larva, pupa, adult).

(i) *Hazardous recreational vehicle site.* Any site where a recreational vehicle is, or may be parked, and it is determined in the professional judgment of an inspector that such site harbors populations of gypsy moth, on the basis of eggs which are present year-round, larvae and pupae which are present in spring and summer, or adults which are present in summer, that could hitchhike on and be spread by a recreational vehicle, and such site is listed by the Deputy Administrator in § 301.45-2c.

(j) *High-risk area.* That portion of a regulated area where it is visually determined in the professional judgment of an inspector that there is a substantial risk of artificial spread of gypsy moths or browntail moths in any life stage by movement of regulated articles to nonregulated areas. There is substantial risk of artificially spreading the gypsy moth when the inspector determines that regulated articles exist within or adjacent to an area where defoliation has occurred or where the inspector has reason to believe that 50 or more egg masses per acre of the gypsy moth are present. There is substantial risk of artificially spreading browntail moth when the inspector determines that regulated articles are within an area where 5 or more browntail moth webs per acre may be present.

(k) *Infestation.* (1) With regard to the browntail moth, it means the presence of eggs, larva(e), pupa(e), or adult(s) of the browntail moth.

(2) With regard to the gypsy moth, it means: (i) The presence of gypsy moths as determined by the trapping of male moths in accordance with the program manual in a pattern indicating an established population, or (ii) the detection of any other life stage of the gypsy moth through visual inspection; however, it does not include the presence of life stages of gypsy moth or browntail moth not established in the wild which are found as a result of hitchhiking on transitory means of conveyance.

(l) *Inspector.* Any employee of the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or other person, authorized by the Deputy Administrator in accordance with law to enforce the provisions of the quarantine and regulations in this subpart.

(m) *Interstate.* From any State into or through any other State.

(n) *Limited permit.* A document issued by an inspector to allow the interstate movement of regulated articles to a specified destination.

(o) *Low-risk area.* That portion of the regulated area not designated as a high-risk area.

(p) *Mobile home.* Any vehicle, other than a recreational vehicle, designed to serve, when parked, as a dwelling or place of business.

(q) *Move* (*movement, move*). Shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved by any means. "Movement" and "move" shall be construed in accordance with this definition.

(r) *Outdoor household articles.* Articles associated with a household that have been kept outside the home such as outdoor furniture, barbecue grills, dog houses, boats, hauling trailers, garden tools, tents, and awnings.

(s) *Person.* Any individual, partnership, corporation, company, society, association, or other organized group.

(t) *Plant Protection and Quarantine Programs.* The organizational unit within the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, delegated responsibility for enforcing provisions of the Plant Quarantine Act, the Federal Plant Pest Act; and related legislation, and quarantines and regulations promulgated thereunder.

(u) *Qualified certified applicator.* Any individual who is (1) certified pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (86 Stat. 983; 7 U.S.C. 136b) as a certified commercial applicator in a category allowing use of the restricted pesticides recommended for use in the treatment of outdoor household articles for gypsy moth in section III.C.5 of the Appendix to Subpart—"Portion of Gypsy Moth and Browntail Moth Program Manual"; and (2) who has attended and completed a workshop segment approved by the Deputy Administrator on the identification and treatment of gypsy moth life stages on outdoor household articles.[1]

(v) *Recreational vehicles.* Highway vehicles, including pickup truck campers, one-piece motor homes, and travel trailers, designed to serve as a temporary place of dwelling.

(w) *Regulated area.* Any quarantined State, or any portion thereof, listed as a regulated area in § 301.45–2a or otherwise designated as a regulated area in accordance with § 301.45–2(b).

(x) *Regulated articles.* (1) Gypsy moth regulated articles:

(i) Trees with roots, and shrubs with roots and persistent woody stems, *except* if greenhouse grown throughout the year.

(ii) Logs and pulpwood, *except* if moved to a mill operating under a compliance agreement.[2]

(iii) Firewood (unless moved as an outdoor household article).

(iv) Mobile homes and associated equipment.

(v) Recreational vehicles and associated equipment (unless moved as an outdoor household article), moving from hazardous recreational vehicle sites listed in § 301.45–2c.

(vi) Other products, articles, and means of conveyance listed in paragraph (v)(3) of this section.

(2) Browntail moth regulated articles:

(i) Deciduous trees, and shrubs with persistent woody stems, and parts of such trees and shrubs, with leaves attached.

(ii) Other products, articles, and means of conveyance listed in paragraph (v)(3) of this section.

(3) Any other products, articles, or means of conveyance, of any character whatsoever, when it is determined by an inspector that any life stage of gypsy moth or browntail moth are in proximity to such articles and the articles present a high risk of artificial spread of gypsy moth or browntail moth infestations and the person in possession thereof has been so notified.

(y) *State.* Any State, Territory, or District of the United States including Puerto Rico.

(z) *Treatment manual.* The provisions currently contained in the "Gypsy Moth and Browntail Moth Program Manual"[3, 5] and the "Plant Protection and Quarantine Treatment Manual."[3, 4]

(aa) *Under the direction of.* Monitoring treatments to assure compliance with the requirements in this subpart.

(bb) *Under the direct supervision of a qualified certified applicator.* An inspection or treatment shall be considered to be applied under the direct supervision of a qualified certified applicator if the inspection or treatment is performed by a competent person acting under the instructions and control of a qualified certified applicator who is available if and when needed, even though such qualified certified applicator is not physically present at the time and place the inspection or treatment occurred.

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[1] Names of qualified certified applicators and plant regulatory officials for the States and Territories of the United States are available upon request from the Technology Analysis and Development Staff, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 600 Federal Building, Hyattsville, MD 20782.

[2] Names of mills under compliance agreement are available upon request to the Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250, or from an inspector.

[3] Pamphlets containing such provisions are available upon request to the Deputy Administrator, Plant Protection and Quarantine Programs, APHIS, U.S. Department of Agriculture, Washington, DC 20250, or from an inspector.

[4] NOTE: Provisions for incorporation by reference of the PPQ Treatment Manual approved by the Director, Office of the Federal Register on June 15, 1978.

[5] Relevant portions of the Gypsy Moth and Browntail Moth Program Manual are published as an appendix to these regulations.

(Information collection requirements contained in paragraph (g) were approved by the Office of Management and Budget under control number 0579–0074)

(44 U.S.C. 35)

[45 FR 15510, Mar. 11, 1980, as amended at 48 FR 39601, Sept. 1, 1983; 48 FR 57466, Dec. 30, 1983]

§ 301.45–2 Authorization to designate, and terminate designation of, regulated areas and high-risk and low-risk areas and hazardous recreational vehicle sites.

(a) *Regulated areas and high-risk or low-risk areas.* The Deputy Administrator shall list as regulated areas in § 301.45–2a, each quarantined State, or each portion thereof in which a gypsy moth or browntail moth infestation has been found by an inspector, or each portion of a quarantined State which the Deputy Administrator deems necessary to regulate because of its proximity to infestation or its inseparability for quarantine enforcement purposes from infested localities. The Deputy Administrator may designate any regulated area or portion thereof as a high-risk area or a low-risk area if he determines that it meets the criteria for such area specified in §§ 301.45–1(i) and (n). Less than an entire quarantined State will be designated as a regulated area only if the Deputy Administrator is of the opinion that:

(1) The State has adopted and is enforcing a quarantine or regulation which imposes restrictions on the intrastate movement of the regulated articles which are substantially the same as those which are imposed with respect to the interstate movement of such articles under this subpart, as determined by the Deputy Administrator; and

(2) The designation of less than the entire State as a regulated area will be adequate to prevent the artificial interstate spread of infestations of the gypsy moth and browntail moth.

(b) *Temporary designation of nonregulated areas and low-risk areas as high-risk areas.* The Deputy Administrator or an inspector may temporarily designate any nonregulated area or low-risk area or portion thereof in a quarantined State in which a gypsy moth or browntail moth infestation has been found by an inspector, as a regulated area and may designate the regulated area or portions thereof as a high-risk area if an inspector or the Deputy Administrator determines that it meets the criteria for such an area, as provided in § 301.45–1(i). Written notice of such designation shall be given to the owner or person in possession of such nonregulated or low-risk areas, and, thereafter, the interstate movement of regulated articles from such areas shall be subject to the applicable provisions of this subpart. As soon as practicable, such areas shall be added to the list in § 301.45–2a or such designation shall be terminated by the Deputy Administrator or an authorized inspector, and notice thereof shall be given to the owner or person in possession of the areas.

(c) *Termination of designation as a regulated area.* The Deputy Administrator shall terminate the regulation of any area or change its designation from a high-risk area to a low-risk area whenever he determines that such redesignation is appropriate or required under the criteria specified in paragraph (a) of this section; except that provisions for termination of regulation of areas because of gypsy moth are contained in Section I, Part G. of the Appendix in this subpart.

(d) *List of hazardous recreational vehicle sites.* The Deputy Administrator shall list as hazardous in § 301.45–2c any recreational vehicle sites in a quarantined State in which gypsy moth has been found by an inspector, or in which there is a risk of infestation of the gypsy moth because of the proximity of the sites to infestation of the gypsy moth.

§ 301.45–2a Regulated areas; high-risk and low-risk areas.

(a) The areas described below are designated as gypsy moth regulated areas, and such regulated areas are divided into high-risk areas or low-risk areas as follows:

CONNECTICUT

(1) *High-risk area.* The entire State.

(2) *Low-risk area.* None.

DELAWARE

(1) *High-risk area.*

Kent County. The entire county.

New Castle County. The entire county.

(2) *Low-risk area.*

Sussex County. The entire county.

DISTRICT OF COLUMBIA

(1) *High-risk area.* The entire District.

(2) *Low-risk area.* None.

MAINE

(1) *High-risk area.*

Androscoggin County. The entire county.

Cumberland County. The entire county.

Franklin County. The townships of Avon, Carthage, Chesterville, Farmington, Industry, Jay, New Sharon, New Vineyard, Perkins, Strong, Temple, Washington, Weld, and Wilton.

Hancock County. The entire county.

Kennebec County. The entire county.

Knox County. The entire county.

Lincoln County. The entire county.

Oxford County. The townships of Albany, Batchelders Grant, Bethel, Brownfield, Buckfield, Canton, Denmark, Dixfield, Fryeburg, Greenwood, Hanover, Hartford, Hebron, Hiram, Lovell, Mason Plantation, Mexico, Milton Plantation, Norway, Oxford, Paris, Peru, Porter, Rumford, Stoneham, Stow, Sumner, Sweden, Waterford, and Woodstock.

Penobscot County. The townships of Alton, Argyle, Bangor City, Bradford, Bradley, Brewer City, Carmel, Charleston, Clifton, Corinna, Cornith, Dexter, Dixmont, Edinburg, Enfield, Etna, Exeter, Garland, Glenburn, Grand Falls Plantation, Greenbush, Greenfield, Hampden, Hermon, Holden, Howland, Hudson, Kenduskeag, La Grange, Levant, Lincoln, Lowell Mattamiscontis, Maxfield, Milford, Newburgh, Newport, Old Town City, Orono, Orrington, Pasadumkeag, Plymouth, Stetson, Summit, Veazie-Eddington, and 1 ND.

Piscataquis County. The townships of Atkinson, Medford, Milo, and Orneville.

Sagadahoc County. The entire county.

Somerset County. The townships of Anson, Athens, Cambridge, Canaan, Cornville, Detroit, Embden, Fairfield, Harmony, Hartland, Madison, Mercer, New Portland, Norridgewock, Palmyra, Pittsfield, Ripley, Skowhegan, Smithfield, Solon, St. Albans, and Starks.

Waldo County. The entire county.

Washington County. The townships of Addison, Beals, Beddington, Centerville, Cherryfield, Columbia, Columbia Falls, Crawford, Deblois, East Machias, Harrington, Jonesborro, Jonesport, Machias, Machiasport, Marshfield, Milbridge, Northfield, Rogue Bluffs, Steuben, Wesley, Whitneyville, 5 ND, 18 ED, 18 MD, 19 ED, 19 MD, 24 MD, 25 MD, 26 ED, 27 ED, 29 MD, 30 MD, 31 MD, 36 MD, 37 MD, 42 MD, and 43 MD.

York County. The entire county.

(2) *Low-risk area.*

Aroostook County. Township of Molunkus.

Franklin County. The townships of Crockertown, Dallas Plantation, Freeman, Jerusalem, Kingfield, Madrid, Mount Abraham, Phillips, Rangeley Plantation, Redington, Salem, Sandy River Plantation, 6, E, and D.

Oxford County. The townships of Andover, Andover North, Andover West, Byron, Gilead, Grafton, Magalloway Plantation, Newry, Richardsontown, Riley, Roxbury, Upton, C, and C Surplus.

Penobscot County. The townships of Burlington, Chester, E. Millinocket, Hopkins Academy Grant, Indian Purchase, Lee, Long A, Mattawamkeag, Medway, Millinocket, Winn, Woodville, Veazie Gore, AR 7, AR 8 & 9, and 3 R 1.

Piscataquis County. The townships of Abbott, Dover-Foxcroft, Guilford, Kingsbury Plantation, Parkman, Sangeville, Sebec, Wellington, and 1 R 9.

Somerset County. The townships of Bingham, Brighton Plantation, Caratunk, Concord Plantation, Highland Plantation, Lexington Plantation, Mayfield, Moscow, and Pleasant Ridge Plantation.

Washington County. The townships of Alexander, Baileyville, Baring, Calais, Cooper, Charlotte, Cutler, Dennysville, Eastport, Edmonds, Lubec, Marion, Meddybemps, Pembroke, Perry, Princeton, Robbinston, Trescott, Whiting, Plantation 14, and Plantation 21.

MARYLAND

(1) *High-risk area.*

Allegany County. The entire country.

Baltimore City. The entire city.

Baltimore County. The entire county.

Caroline County. That portion of the county bounded by a line beginning at a point where State Highway 404 intersects the Caroline County-Queen Annes County line; then northerly along said line to its intersection with the Maryland-Delaware State line; then southerly along said line to its intersection with State Highway 404; then northwesterly along said highway to the point of beginning.

Carroll County. The entire county.

Cecil County. The entire county.

Frederick County. The entire county.

Garrett County. That portion of the county where State Highway 669 intersects with the Maryland-Pennsylvania State line; then south along said highway to its intersection with U.S. Highway 40; then east along said highway to its intersection with State Highway 495; then southerly along said highway to its intersection with State Highway 135; then east along said highway to its intersection with the Garrett County-

Allegany County line; then north along said line to its intersection with the Maryland-Pennsylvania State line; then west along the Maryland-Pennsylvania State line to the point of beginning.

Harford County. The entire county.

Howard County. The entire county.

Kent County. The entire county.

Queen Annes County. The entire county.

Washington County. The entire county.

(2) *Low-risk area.*

Anne Arundel County. The entire county.

Caroline County. That portion of the county bounded by a line beginning at a point where State Highway 404 intersects the Caroline County-Queen Annes County line; then southerly along said line to its intersection with the Caroline County-Talbot County line; then southerly along the Caroline County-Talbot County line to its intersection with the Caroline County-Dorchester County line; then easterly along the Caroline County-Dorchester County line to the Maryland-Delaware State line; then north along the Maryland-Delaware State line to its intersection with State Highway 404; then northwesterly along said highway to the point of beginning.

Dorchester County. The entire county.

Garrett County. That portion of the county bounded by a line beginning at a point where State Highway 669 intersects with the Maryland-Pennsylvania State line; then west along said line to its intersection with the Maryland-West Virginia State line; then south and northeasterly along said line to its intersection with the Garrett County-Allegany County line; then north along said line to its intersection with State Highway 135; then westerly along said highway to its intersection with State Highway 495; then northerly along said highway to its intersection with U.S. Highway 40; then west along said highway to its intersection with State Highway 669; then north on said highway to the point of beginning.

Montgomery County. The entire county.

Prince Georges County. The entire county.

Talbot County. The entire county.

Wicomico County. The entire county.

Worcester County. The entire county.

MASSACHUSETTS

(1) *High-risk area.* The entire State.

(2) *Low-risk area.* None

MICHIGAN

(1) *High-risk area.*

Isabella County. Sec. 11, 12, 13, and 14, T. 14 N., R. 3 W., sec. 33, T. 13 N., R. 4 W.; and sec. 35, T. 14 N., R. 6 W.

Midland County. Sec. 5 and 6, T. 14 N., R. 2 W.

Oakland County. Sec. 18, T. 3 N., R. 7 E., sec. 24 and 27, T. 2 N., R. 10 E., sec. 16 and 17, T. 2 N., R. 11 E.

(2) *Low-risk area.*

Arenac County. The entire county.

Bay County. The entire county.

Branch County. The entire county.

Calhoun County. The entire county.

Clare County. The entire county.

Clinton County. The entire county.

Eaton County. The entire county.

Genesee County. The entire county.

Gladwin County. The entire county.

Gratiot County. The entire county.

Huron County. The entire county.

Ingham County. The entire county.

Ionia County. The entire county.

Iosco County. The entire county.

Isabella County. The entire county *except* sec. 11, 12, 13, and 14, T. 14 N., R. 3 W.; sec. 33, T. 13 N., R. 4 W.; and sec. 35, T. 14 N., R. 6 W.

Jackson County. The entire county.

Lapeer County. The entire county.

Lenawee County. The entire county.

Livingston County. The entire county.

Macomb County. The entire county.

Mecosta County. The entire county.

Midland County. The entire county *except* sec. 5 and 6, T. 14 N., R. 2 W.

Missaukee County. The entire county.

Monroe County. The entire county.

Montcalm County. The entire county.

Newaygo County. The entire county.

Oakland County. The entire county *except* sec. 18, T. 3 N., R. 7 E., sec. 24 and 27, T. 2 N., R. 10 E., sec. 16 and 17, T. 2 N., R. 11 E.

Ogemaw County. The entire county.

Osceola County. The entire county.

Roscommon County. The entire county.

Saginaw County. The entire county.

St. Clair County. The entire county.

Sanilac County. The entire county.

Shiawasee County. The entire county.

Tuscola County. The entire county.

Washtenaw County. The entire county.

Wayne County. The entire county.

NEW HAMPSHIRE

(1) *High-risk area.*

Belknap County. The entire county.

Carroll County. The entire county.

Cheshire County. The entire county.

Grafton County. The entire county.

Hillsboro County. The entire county.

Merrimack County. The entire county.

Rockingham County. The entire county.

Strafford County. The entire county.

Sullivan County. The entire county.

(2) *Low-risk area.*

Coos County. The entire county.

NEW JERSEY

(1) *High-risk area.* The entire State.

(2) *Low-risk area.* None.

NEW YORK

(1) *High-risk area.*

Albany County. The entire county.

Allegany County. The entire county.

Bronx County. The entire county.

Broome County. The entire county.

Cattaraugus County. The entire county.

Cayuga County. The towns of Fleming, Genoa, Ledyard, Locke, Moravia, Niles, Owasco, Scipio, Sempronius, Springport, Sterling, Summer Hill, and Venice.

Chautauqua County. The entire county.

Chemung County. The entire county.

Chenango County. The towns of Afton, Bainbridge, Coventry, German, Greene, Guilford, McDonough, New Berlin, North Norwich, Norwich, Oxford, Pharsalia, Pitcher, Plymouth, Preston, Smithville, and the city of Norwich.

Clinton County. The entire county.

Columbia County. The entire county.

Cortland County. The towns of Cincinnatus, Cortlandville, Freetown, Hartford, Lapeer, Marathon, Solon, Taylor, Virgil, Willet, and the city of Cortland.

Delaware County. The entire county.

Dutchess County. The entire county.

Erie County. The towns of Aurora, Boston, Brant, Cattaraugus, Colden, Collins, Concord, Eden, Evans, Hamburg, Holland, North Collins, Orchard Park, Sardinia, and Wales.

Essex County. The entire county.

Franklin County. The entire county.

Fulton County. The entire county.

Greene County. The entire county.

Hamilton County. The entire county.

Herkimer County. The entire county.

Jefferson County. The towns of Alexandria, Antwerp, Brownville, Cape Vincent, Clayton, and Theresa.

Kings County. The entire county.

Livingston County. The towns of Conesus, Lima, North Dansville, Ossian, Sparta, Springwater, and West Sparta.

Madison County. The town of Sullivan.

Monroe County. The entire county.

Montgomery County. The entire county.

Nassau County. The entire county.

New York County. The entire county.

Oneida County. The towns of Annsville, Camden, Deerfield, Lee, Marcy, New Hartford, Rome City, Utica City, Verona, Vienna, Western, Westmoreland, and Whitestown.

Onondaga County. The towns of Clay, Lafayette, and Otisco.

Ontario County. The towns of Naples and South Bristol.

Orange County. The entire county.

Otsego County. The entire county.

Oswego County. The towns of Constantia, Hastings, Palermo, Schroeppel, Volney, and West Monroe.

Putnam County. The entire county.

Queens County. The entire county.

Rensselaer County. The entire county.

Richmond County. The entire county.

Rockland County. The entire county.

Saratoga County. The entire county.

Schenectady County. The entire county.

Schoharie County. The entire county.

Schuyler County. The entire county.

Seneca County. The towns of Covert, Lodi, Ovid, Romulus, and Varick.

St. Lawrence County. The towns of Brasher, Hammond, Hopkinson, Lawrence, Louisville, Macomb, Massena, Norfolk, Rossie, and Stockholm.

Steuben County. The entire county.

Suffolk County. The entire county.

Sullivan County. The entire county.

Tioga County. The entire county.

Tompkins County. The entire county.

Ulster County. The entire county.

Warren County. The entire county.

Washington County. The entire county.

Westchester County. The entire county.

Yates County. The entire county.

(2) *Low-risk area.*

Cayuga County. The towns of Aurelius, Brutus, Cato, Conquest, Ira, Mentz, Montezuma, Sennett, Throop, and Victory.

Chenango County. The towns of Columbus, Lincklaen, Otselie, Smyrna, and Sherburne.

Cortland County. The towns of Cuyler, Homer, Preble, Scott, and Truxton.

Erie County. The towns of Amherst, Alden, Cheektowaga, Clarence, Elma, Grand Island, Lancaster, Marilla, New Stead, Tonawanda, West Seneca, and the cities of Buffalo, Lackawana, and Tonawanda.

Genesee County. The entire county.

Jefferson County. The towns of Adams, Champion, Ellisburg, Henderson, Hounsfield, LeRay, Lorraine, Lyme, Orleans, Pamelia, Philadelphia, Rodman, Rutland,Wilma, Worth, Watertown, and Watertown City.

Lewis County. The entire county.

Livingston County. The towns of Avon, Calendonia, Geneseo, Groveland, Leicester, Livonia, Mount Morris, Nunda, Portage, and York.

Madison County. The entire county *except* the town of Sullivan.

Niagara County. The entire county.

Oneida County. The towns of Augusta, Ava, Boonville, Bridgewater, Florence, Floyd, Forestport, Kirkland, Marshall, Paris, Remsen, Sangerfield, Steuben, Trenton, and Vernon.

Onondaga County. The entire county *except* the towns of Clay, Lafayette, and Otisco.

Ontario County. The entire county *except* the towns of Naples and South Bristol.

Orleans County. The entire county.

Oswego County. The entire county *except* the towns of Constantia, Hastings, Palermo, Schroeppel, Volney, and West Monroe.

Seneca County. The towns of Fayette, Junus, Seneca Falls, Tyre, and Waterloo.

St. Lawrence County. The entire county *except* the towns of Brasher, Hammond, Hopkinson, Lawrence, Louisville, Macomb, Massena, Norfolk, Rossie, and Stockholm.

Wayne County. The entire county.

Wyoming County. The entire county.

North Carolina

(1) *High-risk area.* None.

(2) *Low-risk area.*

Carteret County. That area bounded by a line beginning at a point on the northern shoreline of Taylors Creek and running north on an imaginary course to the intersection of State Secondary Road 1310 and State Secondary Road 1311; then northerly along State Secondary Road 1311 to its ending; then northerly along an imaginary line to its intersection with North River; then southwesterly along North River shoreline to its junction with Taylors Creek; then westerly along Taylors Creek to the point of beginning.

Oregon

(1) *High-risk area.*

Lane County. Beginning at the point where Interstate 5 intersects with Interstate 105; then easterly on Interstate 105 to its intersection with Highway 126; then easterly on said highway to its intersection with Deerhorn Road; then easterly on said road to its intersection with Booth Kelly Road; then easterly on Booth Kelly Road to its intersection with the north boundary of sec. 27, T. 17 S., R. 1 E.; then due east along an imaginary line to the northeast corner of sec. 26, T. 17 S., R. 3 E.; then due south along an imaginary line to the north boundary of sec. 1, T. 20 S., R. 4 E.; then due west along said boundary to the northwest corner of said section; then due south along an imaginary line to the southeast corner of sec. 26, T. 22 S., R. 3 E.; then due west along an imaginary line to the northwest corner of sec. 31, T. 22 S., R. 2 E.; then due south along the west boundary of said section to the northeast corner of sec. 36, T. 22 S., R. 1 E.; then due west along an imaginary line to the southwest corner of sec. 28, T. 22 S., R. 1 W.; then due north along an imaginary line to the northwest corner of said section; then due west along an imaginary line to the northwest corner of sec. 30, T. 22 S., R. 1 W.; then due south along the west boundary of said section to the northeast corner of sec. 25, T. 22 S., R. 2 W.; then due west along an imaginary line to the northwest corner of sec. 29, T. 22 S., R. 2 W.; then due north along an imaginary line to the northeast corner of sec. 17, T. 22 S., R. 2 W.; then due west along the north boundary of said section to the east boundary of sec. 13, T. 22 S., R. 3 W.; then due north along said boundary to the northeast corner of said section; then due west along an imaginary line to the northwest corner of sec. 18, T. 22 S., R. 3 W.; then due north along an imaginary line to the northwest corner of sec. 30, T. 21 S., R. 3 W.; then due east along the north boundary of said section to the northeast corner of said section; then due north along an imaginary line to the northwest corner of sec. 29, T. 20 S., R. 3 W.; then due east along the north boundary of said section to the northeast corner of said section; then due north along an imaginary line to the northwest corner of sec. 9, T. 20 S., R. 3 W.; then due east along the north boundary of said section to the northeast corner of said section; then due north along an imaginary line to the intersection of said line and Camas Swale Road; then westerly along said road to its intersection with the west boundary of sec. 13, T. 19 S., R. 4 W.; then due north along an imaginary line to its intersection with Fox Hollow Road; then westerly along said road to its intersection with McBeth Road; then northerly along McBeth Road to its intersection with the west boundary of sec. 23, T. 18 S., R. 4 W.; then due north along the west boundary of said section to the northwest corner of said section; then due west along an imaginary line to the southwest corner of sec. 16, T. 18 S., R. 4 W.; then due north along an imaginary line to the intersection of said line with Highway 126; then westerly along said highway to its intersection with Territorial Highway; then due south along Territorial Highway to its intersection with the south boundary of sec. 36, T. 17 S., R. 6 W.; then due west along an imaginary line to the southwest corner of sec. 34, T. 17 S., R. 6 W.; then due east along the north boundary of said section to the northeast corner of said section; then due north along an imaginary line to the northwest corner of sec. 14, T. 16 S., R. 6 W.; then due east along an imaginary line to its intersection with Siegman-Smyth Road; then northerly along said road to its intersection with High Pass Road; then easterly along High Pass Road to the northwest corner of sec. 1, T. 16 S., R. 5 W.; then due south along an imaginary line to the southwest corner of sec. 12, T. 16 S., R. 5 W.; then due east along the south boundary of said section to Vogt Road; then southerly along said road to its intersection with Meadowview Road West; then due east along Meadowview Road West to its intersection with Highway 99; then southeasterly along said highway to its intersection with Belt Line Highway; then easterly along Belt Line Highway to its intersection with the west boundary of sec. 18, T. 17 S., R. 3 W.; then due north along said boundary to the northwest corner of said section; then due east along an imaginary line to the northeast corner of sec. 17, T. 17 S., R. 3 W.; then due south along the east boundary of said section to its intersection with Belt Line Highway; then easterly along said highway to its intersection with Interstate 5; then southerly along Interstate 5 to the point of beginning.

(2) *Low-risk area.* None.

PENNSYLVANIA

(1) *High-risk area.*

Adams County. The entire county.

Bedford County. The entire county.

Berks County. The entire county.

Blair County. The entire county.

Bradford County. The entire county.

Bucks County. The entire county.

Cambria County. The entire county.

Cameron County. The entire county.

Carbon County. The entire county.

Centre County. The entire county.

Chester County. The entire county.

Clarion County. The entire county.

Clearfield County. The entire county.

Clinton County. The entire county.

Columbia County. The entire county.

Cumberland County. The entire county.

Dauphin County. The entire county.

Delaware County. The entire county.

Elk County. The entire county.

Forest County. The entire county.

Franklin County. The entire county.

Fulton County. The entire county.

Huntingdon County. The entire county.

Indiana County. The entire county.

Jefferson County. The entire county.

Juniata County. The entire county.

Lachawanna County. The entire county.

Lancaster County. The entire county.

Lebanon County. The entire county.

Lehigh County. The entire county.

Luzerne County. The entire county.

Lycoming County. The entire county.

McKean County. The entire county.

Mifflin County. The entire county.

Monroe County. The entire county.

Montgomery County. The entire county.

Montour County. The entire county.

Northampton County. The entire county.

Northumberland County. The entire county.

Perry County. The entire county.

Philadelphia County. The entire county.

Pike County. The entire county.

Potter County. The entire county.

Schuylkill County. The entire county.

Somerset County. The entire county.

Snyder County. The entire county.

Sullivan County. The entire county.

Susquehanna County. The entire county.

Tioga County. The entire county.

Union County. The entire county.

Venango County. The entire county.

Warren County. The entire county.

Wayne County. The entire county.

Westmoreland County. The entire county.

Wyoming County. The entire county.

York County. The entire county.

(2) *Low-risk area.* Counties not designated as high-risk area.

RHODE ISLAND

(1) *High-risk area.* The entire State.

(2) *Low-risk area.* None.

VERMONT

(1) *High-risk area.*

Addison County. The entire county.

Bennington County. The entire county.

Chittenden County. The entire county.

Franklin County. The entire county.

Grand Isle County. The entire county.

Rutland County. The entire county.

Windham County. The entire county.

Windsor County. The entire county.

(2) *Low-risk area.*

Caledonia County. The entire county.

Essex County. The entire county.

Lamoille County. The entire county.

Orange County. The entire county.

Orleans County. The entire county.

Washington County. The entire county.

VIRGINIA

(1) *High-risk area.*

Arlington County. The entire county.

City of Alexandria. The entire city.

City of Fairfax. The entire city.

City of Falls Church. The entire city.

City of Manassas. The entire city.

City of Winchester. The entire city.

Clarke County. The entire county.

Fairfax County. The entire county.

Frederick County. The entire county.

Loudoun County. The entire county.

(2) *Low-risk area.*

Accomack County. That portion of the county north of a line beginning at the intersection of State Road 695 and the Chesapeake Bay on the west; then easterly along State Road 695 to its intersection with State Road 679; then north along State Road 679 to its intersection with State Road 695; then easterly along State Road 695 to its intersection with Powells Bay; then east from said intersection along an imaginary line to its intersection with the Atlantic Ocean.

Culpeper County. The entire county.

Fauquier County. The entire county.

Madison County. That portion of the county north of a line beginning at the intersection of State Route 615 and the Greene-Madison County line; then easterly along State Route 615 to its intersection with State Route 662; then northerly along State Route 662 to the boundary of the Shenandoah National Park; then northerly along the Shenandoah National Park boundary to its intersection with State Route 672; then east along State Route 672 to its intersection with State Route 649; then northeast along State Route 649 to its intersection with State Route 670; then southeasterly along State Route 670 to its intersection with State Route 231; then southeasterly along State Route 231 to its intersection with State Route 609; then easterly along State Route 609 to its intersection with the Madison-Culpeper County line.

Page County. The entire county.

Prince William County. The entire county.

Rappahannock County. The entire county.

Shenandoah County. That portion of the county which lies north and east of State Route 675.

Stafford County. The entire county.

Warren County. The entire county.

WASHINGTON

(1) *High-risk area.* None.

(2) *Low-risk area.*

Pierce County. The entire county.

Whatcom County. That portion of the county bounded by a line beginning at a point where the Skagit-Whatcom County line intersects the Belingham-Samish Bays; then easterly along said line to its intersection with State Highway 9; then northerly along said highway to its intersection with State Highway 542; then westerly from said intersection along an imaginary line to its intersection with the easterly most point of Gushen Road; then westerly along Gushen Road to its intersection with Axton Road; then westerly along Axton Road to its intersection with the Nooksack River; then southerly along the Nooksack River to Bellingham Bay; then southerly along Bellingham Bay to the point of beginning.

WEST VIRGINIA

(1) *High-risk area.*

Berkeley County. The entire county.

Jefferson County. The entire county.

Morgan County. The entire county.

(2) *Low-risk area.*

Grant County. That portion of the county lying north of State Highway 93 and west of State Highway 42 and U.S. Highway 50.

Hampshire County. The entire county.

Mineral County. The entire county.

[50 FR 13542, Apr. 5, 1985]

§ 301.45-2b [Reserved]

§ 301.45-2c List of hazardous recreational vehicle sites.

The recreational vehicle sites listed below are designated as gypsy moth hazardous recreational vehicle sites within the meaning of the provisions of this subpart as indicated below.

Hazardous Recreational Vehicle Sites

CONNECTICUT

Litchfield County. Goshen: Valley of the Pines. Kent: Housatonic Meadows State Park and Lake Waramaug State Park. Southbury: Kettletown State Park. Watertown: Blackrock State Park.

New London County. Lebanon: Water's Edge.

MAINE

Cumberland County. Bridgton: Long Lake Campground. Freeport: Recompence Shore Campsites. Naples: Bay of Naples Campground, Brandy Pond Camps, and Sebago Lake State Park. Pownal: Bradbury Mountain State Park. Raymond: Indian Point Tent & Trailer Park. South Casco: Point Sebago.

Knox County. Camden: Camden Hills State Park.

Lincoln County. Damariscotta: Lake Pemaquid.

Oxford County. Denmark: Pleasant Mountain Campground. Fryeburg: Swan's Falls Campground. Porter: Ossippee River Campground.

York County. Eliot: Indian River Campground. Kennebunk: Yankeeland Campground. Sanford: Sanford—Wells. East Waterboro: Honnewell Campground.

MASSACHUSETTS

Barnstable County. Brewster: R. C. Nickerson State Park.

Berkshire County. North Adams: Historic Valley.

Bristol County. East Taunton: Massasoit State Park.

Franklin County. Bernardston: Purple Meadow. Erving: Laurel Lake, Erving State Forest. Orange: The Ranch and Wagon Wheel. Whately: White Birch.

Hampden County. Westfield: Sunnyside.

Middlesex County. Ashby: Damon Pond Campground, Willard Brook State Forest. North Reading: Harold Parker State Forest. West Townsend: Pearl Hill State Park.

Plymouth County. Hingham: Wompatuck State Park.

Worcester County. Sturbridge: Wells State Park. Winchedon: Lake Dennison State Park and Otter River State Forest.

NEW HAMPSHIRE

Belknap County. Belmont: Winnisquam Beach Campground. Gilford: Belknap County Recreational Area Campground. Laconia: Hack-Ma-Tack Camping and Weirs Beach Tent & Trailor Park. New Hampton: Twin Tamarack Campground.

Carroll County. Albany: Blackberry Crossing, Covered Bridge, Pine Knoll Camping Area, and White Ledge, in White Mountain

National Forest. Bartlett: Green Meadow Camping Area and Silver Spring Campground. Conway: Saco River Campground and Sit'N Bull Campground. Moultonboro: Arcadia Campground and Winnipesaukee KOA. Ossipee: Whittier Camping Area. Tamworth: White Lake State Park.

Cheshire County. Jaffrey: Monadnock State Park Campground.

Merrimack County. Allenstown: Bear Brook State Park. Franklin: Thousand Acre Campground. Henniker: Keyer Pond Campground. Loudon: Cascade Park Campground.

Rockingham County. Nottingham: Pawtuckaway State Park.

NEW JERSEY

Morris County. Parsippany-Troy Hills Township: Brookwood Campground.

NEW YORK

Essex County. Port Henry: Bullwagga Bay Campsite and Port Henry Campground.

Greene County. Haines Falls: North Lake State Campground.

Orange County. Montgomery: Winding Hills.

Rockland County. Stoney Point: Beaver Pond Campground in Harriman State Park.

Suffolk County. Greenport: KOA Campground. Middle Island: Cathedral Pines.

PENNSYLVANIA

Bedford County. East Providence: Crestview Campground.

Berks County. Greenwich: Old Dutch Mill and Blue Rocks.

Bucks County. East Rockhill: Tohicken Family Campground. Haycock: Lake Towhee and Little Red Barn.

Chester County. Schuylkill: Baker Park.

Columbia County. Orange: Diehl's Campground.

Cumberland County. Dickinson: Tag Run.

Lancaster County. East Drumore: Woodland Acres. Salisbury: Wayside Woodland. West Donegal: Shaw-N-Tee.

Luzerne County. Plymouth: Moon Lake.

Monroe County. Pocono: Four Seasons.

Northampton County. Moore: Evergreen Lakes.

Pike County. Greene: Promised Land State Park. Lehman: Ken's Woods.

Schuylkill County. Hedgins: Camp-A-While.

VERMONT

Addison County. New Haven: Rivers Bend Campsites.

Grande Isle County. North Hero: North Hero State Park.

Rutland County. Huddardton: Big "D" Campground and Lake Bomoseen Campground. Poultney: St. Catherine State Park Campground.

Windham County. Guilford: Fort Drummer State Park Campground.

[46 FR 35909, July 13, 1981]

§ 301.45-3 Conditions governing the interstate movement of regulated articles from quarantined States.[6]

(a) A regulated article shall not be moved interstate from any high-risk area into or through any nonregulated area unless a certificate or permit has been issued and attached to such regulated article in accordance with §§ 301.45-4 and 301.45-7.

(b) A regulated article shall not be moved interstate from any low-risk area into or through any nonregulated area when it is determined by an inspector that any life stage of the gypsy moth or browntail moth is on the regulated article, and the person in possession thereof has been so notified by an inspector, unless a certificate or permit has been issued and attached to such regulated articles in accordance with §§ 301.45-4 and 301.45-7.

(c) A regulated article originating outside of any high-risk area, except any regulated article in any low-risk area determined by an inspector to present a hazard of spreading the gypsy moth or browntail moth pursuant to paragraph (b) of this section, may be moved interstate directly through any high-risk area without a certificate or permit, if the point of origin of the article is clearly indicated by shipping documents, their identity has been maintained, and they have been safeguarded against infestation while in any high-risk area.

§ 301.45-4 Issuance and cancellation of certificates and permits.

(a) A certificate may be issued by an inspector for the movement of a regulated article if such inspector determines that it is eligible for certification for movement to any destination under all Federal domestic plant quarantines applicable to such article and:

(1) It has originated in noninfested premises in a high-risk area and has

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[6] Requirements under all other applicable Federal domestic plant quarantines must also be met.

not been exposed to the pests while within the high-risk area; or

(2) Upon the inspector's examination, he finds it to be free of the pests; or

(3) It has been treated under the direction of an inspector to destroy the pests in accordance with the treatment manual; or

(4) It has been grown, produced, manufactured, stored, or handled in such a manner that no infestation would be transmitted thereby as determined by an inspector.

(b) Limited permits may be issued by an inspector to allow interstate movement of any regulated article under this subpart, to specified destinations for specified handling, utilization, processing, or for treatment in accordance with the treatment manual, when, upon evaluation of all of the circumstances involved in each case, the Deputy Administrator determines that such movement will not result in the spread of the gypsy moth or browntail moth because life stages of the moths will be destroyed by such specified handling, utilization, processing or treatment or the pest will not survive in areas to which shipped, and the requirements of all other applicable Federal domestic plant quarantines have been met.

(c) Certificate and limited permit forms may be issued by an inspector to any person for use for subsequent shipments of regulated articles provided such person is operating under a compliance agreement, and any such person may be authorized by an inspector to reproduce such forms on shipping containers or otherwise for the movement of regulated articles. Any such person may execute and issue the certificate forms or reproduction of such forms, for the interstate movement of regulated articles from the premises of such person identified in the compliance agreement if such person has treated such regulated articles to destroy infestation in accordance with the treatment manual, and if such regulated articles are eligible for certification for movement to any destination under all applicable Federal domestic plant quarantines. Any such person may execute and issue the limited permit forms, or reproductions of such forms, for interstate movement of regulated articles to specified destinations when the inspector has made the determinations specified in paragraph (b) of this section.

(d) Any certificate or permit which has been issued or authorized may be withdrawn by an inspector if he determines that the holder thereof has not complied with any condition for the use of such document. The reasons for the withdrawal shall be confirmed in writing as promptly as circumstances permit. Any person whose certificate or permit has been withdrawn may appeal the decision in writing to the Deputy Administrator within ten (10) days after receiving the written notification of the withdrawal. The appeal shall state all of the facts and reasons upon which the person relies to show that the certificate or permit was wrongfully withdrawn. The Deputy Administrator shall grant or deny the appeal, in writing, stating the reasons for his decision as promptly as circumstances permit. If there is a conflict as to any material fact, a hearing shall be held to resolve such conflict.

§ 301.45-5 Compliance agreement and cancellation thereof.

(a) Any person engaged in the business of growing, handling, or moving regulated articles may enter into a compliance agreement to facilitate the movement of such articles under this subpart. A compliance agreement shall specify safeguards necessary to prevent spread of the gypsy moth and browntail moth, such as disinfestation practices or application of chemical materials. Compliance agreement forms may be obtained from the Deputy Administrator or an inspector.

(b) Any compliance agreement may be canceled by the inspector who is supervising its enforcement, orally or in writing, whenever the inspector finds that such person has failed to comply with the conditions of the agreement. If the cancellation is oral, the decision and the reasons therefore shall be confirmed in writing, as promptly as circumstances permit. Any person whose compliance agreement has been canceled may appeal the decision in writing to the Deputy Administrator within ten (10) days after receiving written notification of the cancellation. The appeal shall state all of the facts and reasons upon which the person relies to show that the compliance agreement was wrongfully canceled. The Deputy Administrator shall grant or deny the appeal, in writing, stating the reasons for such decision, as promptly as circumstances permit. If there is a conflict as to any material fact, a hearing shall be held to resolve such conflict.

§ 301.45-6 Assembly and inspection of regulated articles.

Persons (other than those authorized to use certificates or limited permits, or reproductions thereof, under § 301.45-4(c)) who desire to move interstate a regulated article which must be accompanied by a certificate or permit shall, as far in advance as possible, (should be no less than 48 hours before the desired movement), request an inspector to examine the articles prior to movement. Such article shall be assembled at such point and in such manner as the inspector designates to facilitate inspection.

§ 301.45-7 Attachment and disposition of certificates and permits.

(a) A certificate or limited permit required for the interstate movement of a regulated article, at all times during such movement, shall be securely attached to the outside of the container containing the regulated article, or securely attached to the article itself if not in a container, or securely attached to the consignee's copy of the waybill or other shipping document: *Provided, however,* That the requirements of this section may be met by attaching the certificate or limited permit to the consignee's copy of the waybill or other shipping document only if the regulated article is sufficiently described on the certificate, limited permit, or shipping document to identify such article.

(b) The certificate or limited permit for the movement of a regulated article shall be furnished by the carrier to the consignee at the destination of the shipment.

§ 301.45-8 Inspection and disposal of regulated articles, outdoor household articles and pests.

Any properly identified inspector is authorized to stop and inspect, and to seize, destroy, or otherwise dispose of, or require disposal of regulated articles, outdoor household articles and gypsy moths or browntail moths as provided in section 10 of the Plant Quarantine Act (7 U.S.C. 164a) and section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd).

[45 FR 15510, Mar. 11, 1980, as amended at 48 FR 39601, Sept. 1, 1983]

§ 301.45-9 Movement of live gypsy moths and browntail moths.

Regulations requiring a permit for and otherwise governing the movement of live gypsy moths and browntail moths in interstate or foreign commerce are contained in the Federal Plant Pest Regulations in Part 330 of this chapter.

§ 301.45-10 Costs and charges.

The services of the inspector shall be furnished without cost. The U.S. Department of Agriculture will not be responsible for any costs or charges incident to inspections or compliance with the provisions of the quarantine and regulations in this subpart, other than for the services of the inspector.

§ 301.45-11 Conditions governing the interstate movement of outdoor household articles from quarantined States.[6]

(a) No outdoor household article shall be moved interstate from a gypsy moth high-risk area into or through any nonregulated area unless;

(1) Such outdoor household article is free from all life stages of the gypsy moth at the time ot the intertstate movement; or

(2) Such outdoor household article is accompanied by an OHA document issued by a qualified certified applicator in accordance with the provisions of §§ 301.45-12 and 301.45-13 within five calendar days of the interstate

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[6] Requirements under all other applicable Federal domestic plant quarantines must also be met.

movement from a gypsy moth high-risk area; or

(3) Such outdoor household articles are brought in by vacationers to the gypsy moth high-risk areas.

[48 FR 39601, Sept. 1, 1983]

§ 301.45–12 Issuance of OHA document.

(a) An OHA document may be issued by a qualified certified applicator for the interstate movement of any outdoor household article if such qualified certified applicator determines the following:

(1) That the outdoor household article has been inspected by or under the direct supervision of the qualified certified applicator and found to be free of any life stage of the gypsy moth; or

(2) That the outdoor household article has been treated by or under the direct supervision of the qualified certified applicator to destroy any life stage of the gypsy moth in accordance with methods and procedures prescribed in section III.C.5 of the Appendix to Subpart ("Treatment of Outdoor Household Articles").

(Approved by the Office of Management and Budget under control number 0579-0074)

(44 U. S. C. 35)

[48 FR 39601, Sept. 1, 1983, as amended at 48 FR 57466, Dec. 30, 1983]

§ 301.45–13 Attachment of OHA document.

(a) An OHA document used in the interstate movement of any outdoor household article shall, at all times during such movement, accompany the vehicle carrying such outdoor household article.

(b) The OHA document covering the movement of outdoor household articles shall be furnished by the carrier to the consignee at the destination of the shipment.

[48 FR 39602, Sept. 1, 1983]

§ 301.45–14 Disqualification of qualified certified applicator to issue OHA documents.

(a) Any qualified certified applicator may be disqualified from issuing OHA documents by the Deputy Administrator if he determines that one of the following has occurred:

(1) Such person is not certified by a State and/or Federal Government as a commercial certified applicator under FIFRA in a category allowing use of the restricted pesticides recommended for use in treating outdoor household articles for gypsy moth as provided in section III.C.5 of the Appendix to the Subpart—Portion of "Gypsy Moth and Browntail Moth Program Manual"; or

(2) Noncompliance with any of the provisions of this subpart

(b) The disqualification is effective upon oral or written notification, whichever is earlier. The reasons for the disqualification shall be confirmed in writing as promptly as circumstances permit, unless contained in the written notification. Any qualified certified applicator who is disqualified from issuing OHA documents may appeal the decision in writing to the Administrator within ten (10) days after receiving written notification of the disqualification. The appeal shall state all of the facts and reasons upon which the person relies to show that the disqualification was a wrongful action. The Administrator shall grant or deny the appeal, in writing, stating the reasons for his decision as promptly as circumstances permit. If there is a conflict as to any material fact, a hearing shall be held to resolve such conflict. Rules of practice concerning such a hearing will be adopted by the Administrator.

(Approved by the Office of Management and Budget under control number 0579-0074)

(44 U.S.C. 35)

[48 FR 39602, Sept. 1, 1983, as amended at 48 FR 57466, Dec. 30, 1983]

APPENDIX TO SUBPART—PORTION OF "GYPSY MOTH AND BROWNTAIL MOTH PROGRAM MANUAL" [7]

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[7] The entire manual will be made available from the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, Federal Building, Hyattsville, MD 20782.

Authorization

The gypsy moth and browntail moth Quarantine 45, as amended (7 CFR 301.45), sets forth conditions governing the movement of regulated articles. One of these provisions is the treatment of articles under the direction of an authorized inspector in accordance with administratively approved procedures. Procedures outlined in section III of this manual are administratively authorized for the treatment of the regulated articles. Procedures outlined in section III.C.5 are administratively authorized for the treatment of outdoor household articles by approved certified applicators. Other articles which may require treatment to prevent spread of the gypsy moth and the browntail moth, as determined by an inspector, likewise may be treated in accordance with procedures contained herein. These treatment procedures are based on information developed by both State and Federal agencies.

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I. General Information—Gypsy Moth

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F. *Definition of Infestation.* An infestation of gypsy moth is considered established when one of the following criteria are met:

1. Trapping—The delimiting survey at a positive trap site yields a pattern of positive male moth recoveries in the year following the original find; or

2. Scouting—Inspection reveals the establishment of any other life stage of the gypsy moth in a susceptible area.

The area regarded infested will be 1.6 kilometers (one mile) beyond the site of each specimen recovery. When deemed necessary, a 1.6 kilometer (one-mile) radius from the point of specimen recovery will be regulated.

G. *Eradication Criteria.* Eradication of the gypsy moth from an area previously found infested will be declared:

1. After treatment of the previously infested area with insecticides in accordance with this manual and after the subsequent completion of a negative survey in the area using the trapping procedures under the heading "Delimiting" paragraph II.A.3. of this manual; or

2. After applications of virus and/or pheromone are made and upon completion of two consecutive negative surveys covering a span of two years.

* * * * *

II. Survey Procedures—Gypsy Moth

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A. *Trapping survey.*

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3. Delimiting. When a positive trap find is reported, a delimiting survey must be conducted the following year to determine if an infestation is present. If the original find is not too late in the season, a trapping survey of about 9 square miles will be conducted during the same season as the original find. This will better establish the area to be covered by the delimiting survey.

In the area of the positive trap find, 10, 12, or 31 traps per square kilometer (25, 32, or 81 traps per square mile) will be used in a 23.3 square kilometer (9 square mile) area. Three and one half traps per square kilometer (9 traps per square mile) should be used in a 41.4 square kilometer (16 square mile) area surrounding the core area. This area may be extended to 104 square kilometers (40 square miles).

* * * * *

III. Regulatory Procedures

A. *Instructions to Officers.* Officers must know and follow instructions in this manual as a basis for the treatment or other procedures to be followed in authorizing the movement of regulated products. It will serve as a basis for explaining such procedures to persons interested in moving products affected by the quarantine regulations. Only the treatment procedures authorized herein will be utilized.

Officers should be familiar with the following for regulatory purposes:

PLANT PROTECTION AND QUARANTINE TREATMENT MANUAL
AERIAL APPLICATION-PLANNING (807-52.0000)
AERIAL APPLICATION-OPERATIONS (807-53.0000)
INSTRUCTIONS FOR CALIBRATION OF GROUND EQUIPMENT (807-54.0000)
FORMULAS AND OTHER GENERAL INFORMATION USEFUL IN CONTROL OPERATIONS (807-55.0000)
GYPSY MOTH AND BROWNTAIL MOTH QUARANTINE 7 CFR 301.45

Officers should furnish complete information to anyone interested in moving regulated products. Shippers should be advised of all authorized procedures available and should be guided by the inspector in the selection of the proper procedure.

B. *Authorized Chemicals.* The following chemicals are authorized for treatment of regulated articles for gypsy moth as specifically listed on the pesticide label or in this manual.

OVICIDES
  Creosote
  Methyl Bromide
LARVICIDES
  Carbaryl (Sevin)
  Trichlorfon (Dylox)
  Acephate (Orthene)
  Diflubenzuron (Dimilin)

C. *Approved Treatments—Gypsy Moth.*

1. Mobile Homes and Recreational Vehicles.

a. *Cleaning and Inspection.*

General

This inspection procedure can apply to both mobile homes and recreational vehicles. However, since the movement of recreational vehicles is usually contingent upon treatment of the site, the procedure is addressed to mobile homes. The inspection of mobile homes is difficult and time consuming. Thorough inspection is necessary to assure that all visible infestation has been removed from the vehicle and its associated equipment. Since we cannot be sure that all egg masses have been found, a limited permit is used whenever a mobile home is moved from a hazardous site to a point outside the regulated area.

Special Equipment

Flashlight, small hand mirror.

Method

(1) *Exterior of mobile home.* (a) Inspect the roof and eaves, window sills (top and bottom), fuse boxes, electrical connections, propane gas tanks, and other appendages.

(b) Inspect accessories, such as sheds, which may be used as storage and then dismantled to accompany the vehicle to its new destination. The interior as well as the exterior of such building should be inspected.

(c) Inspect fences used around a mobile home which may also be dismantled to accompany the vehicle.

(d) Inspect steps, trailer hitches, expandable rooms, and patios.

(e) Inspect wheels, including inside of rims and brake drums which sometimes shelter egg masses.

(f) Inspect blocks or other material used to hold the vehicle in place.

(g) Inspect gardens and flower boxes if the mobile home has been in place for some time. It should be determined from the owner if any of these items will be moved with the mobile home.

(2) *Underside of mobile home.* Crawl beneath the mobile home. Care must be taken to examine all floor boards, frame, tubing, corners, interior of I-beams, and any other recess that could shelter an egg mass. Use flashlight and hand mirror to assist inspection.

(3) *Interior of mobile home.* The interior of the mobile home should be searched for any articles that may have been out of doors during the period of egg disposition.

Inspect such articles for egg masses. Note: Permission of owner or agent must be obtained before interior inspection.

Special Information

If egg masses are found on a mobile home or its accessories, see below.

If larvae are found, see below.

All life stages of the gypsy moth should be removed from a mobile home after treatment and before its movement.

Visual and trapping surveys, in the vincinity of suspect mobile homes which have moved under limited permit, should be conducted at destination to the extent possible.

Treatments to be applied as needed.

b. *Insecticidal Treatment—Egg Masses.*

Material. Creosote—a clear, transparent formulation is preferred.

Equipment. Small brush, scraper.

Method. All egg masses on articles being inspected must be thoroughly saturated with creosote before removal. All egg masses should be removed after treatment but prior to movement.

Limitation. Creosote should not be used on marble, due to the possibility of staining.

c. *Insecticidal Treatment—Larvae.*

Material Carbaryl.

Dosage. Actual insecticide: 12 gr. per liter (.01 lb. per gal.). Coverage; 12 sq. meters per liter (500 sq. ft. per gal.).

Formulation. Sevin— 80S 15 gr. per liter (⅛ oz. per gallon) (1¼ tablespoons per gallon)

Method. Spray all surfaces. Avoid treating in the presence of people or pets. Food should be covered.

Special Information. The pH of water used in mixing pesticides must be checked and adjusted within a range of pH 6.0-7.0 prior to mixing.

2. Timber and Timber Products, Stone and Quarry Products.

a. *Cleaning and Inspection.—General.* Piece-by-piece inspection can be used advantageously for small lots of regulated articles at establishments which ship infrequently and for noncommercial shipments. This method may be used for assembly-yard inspection of articles such as collected native plant material and for timber products.

Method. Inspect all exposed surfaces and crevices where egg masses may be attached. Particular attention should be directed to dunnage and crating material when stone and quarry shipments are involved.

If egg masses or larvae are found, see below.

b. *Insecticidal Treatment—Egg Masses.* Use treatment shown in section III., C.1.b. on page 17.

c. *Insectidical Treatment—Larvae.* Use treatment shown in section III., C.1.c. on page 17.

d. *Fumigation—Material.* Methyl bromide at normal atmospheric pressure (NAP).

Dosage:

Temperature	Dosage—(grams/meter^3 (pounds/1,000 ft^3)	Exposure hours	Concentration readings—grams/meter^3 or ounces/1,000 ft^3)				
			½ h	4 h	8 h	12 h	16 h
−17–9° C (0–15° F)	140 (8¾)	4	98	65			
	80 (5)	8	60	40	28		
	60 (3¾)	16	45	30	21	21	18
−8–0° C (16–32° F)	100 (6¼)	4	75	50			
	60 (3¾)	8	45	30	21		
	52 (3¼)	16	38	26	18	18	15
1–10° C (33–50° F)	72 (4½)	4	54	36			
	52 (3¼)	8	38	26	18		
	40 (2½)	16	30	20	14	14	12
10° C up (50° F up)	56 (3½)	4	42	28			
	40 (2½)	8	30	20	14		
	32 (2)	16	24	16	12	12	10

Method. A thermal conductivity unit will be used when fumigating under tarps. It is important that the enclosure be measured carefully to insure that the proper amount of fumigant is administered. Tarpaulins or other enclosures must be as gastight as possible. Fans should be run until equal distribution of the fumigant within the enclosure is noted on the TC unit. See also PPQ Treatment Manual.

Special Information. Fumigations below 5° C (40° F) are not recommended.

Certification Period. Until next egg-laying season, if not exposed to reinfestation.

3. Trees and Shrubs.

a. *Cleaning and Inspection.*

General. Piece-by-piece inspection can be used advantageously for small lots of regulated articles at establishments which ship infrequently and for noncommercial shipments. This method may be used for assembly-yard inspection of articles such as collected native plant material and for timber products.

Method. Inspect all exposed surfaces and crevices where egg masses may be attached. Particular attention should be directed to dunnage and crating material when stone and quarry shipments are involved.

If egg masses or larvae are found, see below.

b. *Insecticidal Treatment—Egg Masses.* Use treatment shown in section III, C.1.b. on page 17.

c. *Insecticidal Treatment—Larvae.* Use treatment shown in section III, C.1.c. on page 17.

d. *Fumigation.*

Material. Methyl bromide at normal atmospheric pressure (NAP). (Must *not* contain chloropicrin.)

Dosage:

Temperature	Dosage grams/meter^3 (lbs/1,000 ft^3)	Exposure hours	Concentration readings—½ hour	Grams m^3 (oz/1,000 ft^3) at end
Schedule I Long exposure—Normal Atmospheric Pressure (NAP)				
5–9°C(40–49°F)	56 (3.5)	4.5	42	28
10–15°C(50–59°F)	43 (3.0)	4.0	36	24
16–20°C(60–69°F)	40 (2.5)	3.0	30	20
21–23°C(70–74°F)	32 (2.0)	2.5	24	16
24°C up (75°F up)	24 (1.5)	2.5	18	12
Schedule II—Short exposure NAP				
5–9°C(40–49°F)	80 (5.0)	2.5	60	40
10–15°C(50–59°F)	64 (4.0)	2.5	48	32
16–20°C(60–69°F)	48 (3.0)	2.5	36	24

Method. A thermal conductivity unit will be used when fumigating under tarps. It is important that the enclosure be measured carefully to insure that the proper dose of fumigant is calculated. Tarpaulins or other enclosures must be as gastight as possible. Plants in a dormant state are generally more tolerant to fumigation. When trees and shrubs are treated, wet rags or other means of introducing moisture into the chamber is required. Fans should be run until equal distribution of the fumigant is noted on the TC unit. See also PPQ Teatment manual.

Special Information. This schedule is also effective against all stages of Japanese beetles.

Precautions. There is evidence that some evergreens, especially narrow-leafed and some azaleas may be injured, under certain circumstances, by this treatment. Plant tolerance tests to methyl bromide have been conducted on most species, and this information is available in the "Handbook of Plant Tolerances to Methyl Bromide."

Certification Period. Until next egg-laying season, if not exposed to reinfestation.

4. Hazardous Sites. (Includes: Mobile home parks and recreational sites, timber and timber product premises, stone and quarry product premises, and tree and shrub premises.)

a. *Inspection.* Regulated articles may be moved without individual inspection and treatment if the articles and the site on which they are located have been determined not to present a hazard of spread of the infestation.

Determination of hazard—Sites and their environs will be inspected for living stages of gypsy moth. Inspections for egg masses should be made when visibility is not hampered by tree foliage.

The following guidelines are to be used to determine the hazard of any site. Topographic and vegetative conditions may vary the distance figures. The final determination of the hazard present in any site rests with the officer.

Guidelines—(1) One or more egg masses found on the articles or within 3 meters (10 feet) of the articles.

(2) Twelve (12) or more egg masses per hectare (5 per acre) found within approximately 30 meters (100 feet) of the articles.

(3) Heavy larval infestations found within 1600 meters (1 mile) which, in the opinion of the inspector, could result in infestation through blow-in or larval migration onto the site.

b. *Insecticidal Treatment—Ground Application.*—Material and dosage:

Material	Formulation	Mixing directions		Application rate	Dosage (actual insecticide)
		Small amount	Large amount		
		Mistblower			
Carbaryl	Sevin ® 80S sticker* water	60 g	11.34 kg (25 lb)	Use sufficient mix to obtain good coverage. (Approximately 5 gal/acre).	2.24 kg per hectare (2 lb per acre).
		3.75 ml	710 ml (24 oz)		
		1 l	189.25 l (50 gal)		
Diflubenzuron	Dimilin ® W-25 water	1.45 g	272.2 g (0.6 lb)	Use sufficient mix to obtain good coverage. (Approximately 5 gal/acre).	16.8 g per hectare (0.015 lb per acre).
		1 l	189.25 l (50 gal)		
Acephate	Orthene ® 75% water	32 g	6.05 kg (26.6 lb)	Use sufficient mix to obtain good coverage. (Approximately 5 gal/acre).	1.12 kg per hectare (1 lb per acre).
		1 l	189.25l (50 gal)		
		Hydraulic Spray Equipment			
Carbaryl	Sevin ® 80S sticker* water	1.5 g	567 g (1¼ lb)	Thoroughly wet the foliage. (Approximately 100 gal/acre).	1.12 kg per hectare (1 lb per acre).
		3.75 ml	1.4 l (3 pt)		
		1 l	378.5 l (100 gal)		
Acephate	Orthene ® 75% water	0.8 g	303 g (10.7 oz)	Thoroughly wet the foliage. (Approximately 100 gal/acre).	561 g per hectare (½ lb per acre).
		1 l	378.5 l (100 gal)		

*Pinolene or Chevron stickers are comparable in effectiveness.

Equipment. Mistblowers, portable, or truck-mounted hydraulic sprayers, and hand-operated sprayers.

Method. Treat the infested portion of the site. Treat the environs of the site to a depth equal to the effective range of the spray equipment in use. A minimum depth of 21 meters (70 feet) will usually suffice to keep migrating late instar larvae from reinfesting the site. If reinfestation does occur, additional treatments may be necessary. In heavily infested sites, two applications, with a 7-10 day interval may be necessary.

Seasonal Limitation. Proper timing of the treatment is essential. The normal larval period is from about May 1 to June 15—a few days earlier in southern sections of the infested area and a few days later in more northern sections. The insecticide should not be applied until general egg hatch is complete in the area. Applications should be made when first, second, and third instar larvae are present. Best results are obtained if application can be delayed until the foliage of white oaks or other preferred hosts is ⅓ to ½ grown. When practical, applications should be made immediately prior to movement of infested articles.

Certification Period. Until the next egg-laying season, if not exposed to reinfestation.

Special Information. Ground treating of mobil home parks is not generally recommended, because of the public relations problems. If a mobile home park is treated, the same procedures apply. Campgrounds can generally be treated adequately by truck-mounted ground equipment. Coverage of the environs, however, will be limited compared to aerial application.

Carbaryl—Avoid using around beehives or in areas frequented by bees.

The pH of water used in mixing pesticides must be checked and adjusted within a range of pH 6.0-7.0 prior to mixing. The pH should be adjusted with commercially available phosphoric acid (85 percent). Generally, 31 ml. (one ounce) of phosphoric acid will adjust 1900 liters (500 gallons) of water from a pH of 9.0 to the acceptable level.

Additional Information. With mist blower application, saturation of foliage with the spray mixture should be avoided. At best, it is virtually impossible to evenly apply 1 pound of pesticide per acre to tree foliage by mist blower. The aim is to obtain an even distribution of pinhead-size droplets on the foliage. Instructions for mist blower calibration are found in manual 807-54.8000. The techniques of mist blower operation are beyond the scope of this manual. Such operations should be directly supervised by experienced personnel who can thus properly train inexperienced personnel.

In using hydraulic ground equipment, the spray mixture is applied to thoroughly wet the foliage—keep dripping of the spray mixture from treated foliage to a minimum.

Water-base sprays may dry out prior to contact with foliage under conditions of high temperatures and/or low relative humidity. Ground personnel should be alerted to detect such occurrences.

Carbaryl has a residual effectiveness for 7-10 days, Dylox for 3-5 days, when applied under similar environmental conditions. Field experience indicates that Dylox should not be applied to wet foliage or when rain may occur within 8 hours after application; rain occurring 2 hours after carbaryl application should not adversely affect the effectiveness of the material. In comparing pesticide costs, remember to include costs of additional materials that would be required with each pesticide, such as sticker or kerosene diluent.

c. *Insecticidal Treatment—Aerial Application.*—Material and dosage:

Material	Formulation	Spray mixture—(per acre)	Application rate	Dosage—actual insecticide
Carbaryl	Sevin ® 4 oil	Sevin—® 4 oil 2.34 l (1q)	2.92 l per hectare (40 oz per acre).	1.12 kg per hectare (1 lb per acre).
		Kerosene—.58 l (8 oz)		
		Sevin ® 80S		
		Sevin ® 80S—1.4 kg (1¼ lbs).	39.35 l per hectare (1 gal per acre).	1.12 kg per hectare (1 lb per acre).
		Sticker—291 ml (4 oz)		
		Water—to make 9.35 l (1 gal).		
Trichlorfon	Dylox ® 1.5 oil	Apply undiluted	6.23 l per hectare (5.33 pts per acre).	1.12 kg per hectare (1 lb per acre).
Diflubenzuron	Dimilin ® W-25*	67.22 g (0.06 lb)	4.68 l per hectare (½ gal per acre).	16.81 g per hectare (0.015 lb per acre).
		Water 4.68 l (½ gal)		

Material	Formulation	Spray mixture—(per acre)	Application rate	Dosage—actual insecticide
Acephate	Orthene [*] 75 pct	1.12 kg (1 lb) Water—to make 4.67 l (½ gal).	4.67 l per hectare (½ gal per acre).	840 grams per hectare (0.75 lb per acre).

[*] For eradication treatments, see section IV, C. 1. for increased water.

Method. Aircraft should be used whenever possible to apply insecticides for regulatory purposes on mobile home parks and campgrounds since better insecticidal coverage is obtained.

Seasonal Limitation. Proper timing of the treatment is essential. The normal larval period is from about May 1 to June 15—a few days earlier in southern sections of the infested area and a few days later in more northern sections. Insecticides should not be applied until general egg hatch is complete in the area. Applications should be made when first, second, and third instar larvae are present. Best results are obtained if application can be delayed until the foliage of white oaks or other preferred hosts is ⅓ to ½ grown.

Certification Period. Until the next egg-laying season, if not exposed to reinfestation.

Special Information. Carbaryl—Avoid using around beehives or in areas frequented by bees.

The pH of water used in mixing pesticides must be checked and adjusted within a range of pH 6.0-7.0 prior to mixing. The pH should be adjusted with commercially available phosphoric acid (85 percent). Generally, 31 ml. (one ounce) of phosphoric acid will adjust 190.0 liters (500 gallons) of water from a pH of 9.0 to the acceptable level.

Water-base sprays may dry out prior to contact with the foliage under conditions of high temperatures and/or low relative humidity. Ground personnel should be alerted to detect such occurrences.

Before and after application of Sevin 4 Oil, flush entire aircraft spray system with kerosene until system is clean. If Dylox 1.5 Oil is to be used, flush the entire aircraft spray system before and after application with *water*; drain all excess water from the system before filling with Dylox 1.5 Oil.

Carbaryl has a residual effectiveness for 7-10 days, Dylox for 3-5 days, when applied under similar environmental conditions. Field experience indicates that Dylox should not be applied to wet foliage or when rain may occur within 8 hours after application; rain occurring 2 hours after carbaryl application should not adversely affect the effectiveness of the material. In comparing pesticide costs, remember to include costs of additional materialsthat would be required with each pesticide, such as sticker or kerosene diluent.

Diflubenzuron—restricted to forest use (infrequently or sparsely populated areas).

5. Treatment of Outdoor Household Articles. The chemicals authorized for treatment of outdoor household articles, in accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 *et seq.*), are regulated by the Environmental Protection Agency for use against gypsy moth and must be applied according to the label directions and the following instructions.

Treatments (A, B, C, D)	Approved for these GM life stages	Limitations	Special instructions
Remove the infestation by hand.	Egg mass caterpillar pupa (cocoon) adult.	*None—use this treatment for most situations*—use pesticides only when hand removal is *not* practical.	If there is an opportunity for the pest to reinfest the household goods: 1. Destroy the gypsy moth life stage by crushing or soaking in fuel oil; 2. Store the household goods inside or safeguard them from reinfestation.
Spray N Kill; gypsy moth egg mass killer (EPA Registration No. 8730-30).	Egg mass only (see limitations).	For the best results, apply within 2 weeks of the date you anticipate egg hatch—never apply this more than 30 days before hatch. See label for additional instructions and follow them precisely.	If the water pH is more than 5, add teaspoons of vinegar until the pH reads 5 *then* add Spray N Kill to the water—safeguard items in situations where they may become reinfested before the move.
Ficam W (EPA Registration No. 45639-1).	Egg mass only (see limitations).	Apply within *21* days of anticipated egg hatch—see label for additional instructions and follow them precisely.	Don't *spray* Ficam where electrical short circuits might result—safeguard items in situations where they may become reinfested before the move.

Treatments (A, B, C, D)	Approved for these GM life stages	Limitations	Special instructions
Orthene tree and ornamental spray.	Caterpillar only	*Use only on caterpillars* see label for additional instructions and follow them precisely.	Safeguard items in situations where they may become reinfested before the move.

NOTICE: Where trade names are used, no discrimination and no endorsement is intended or implied by the USDA, APHIS, PPQ.

D. *Approved Treatments—Trees and Shrubs—Browntail Moth.*

1. *Cleaning and Inspection.* Inspect leaves (green or dry) for webs, larvae, or egg clusters. Remove and destroy any infested leaves.

2. *Fumigation.*

Material and Dosage. Methyl bromide at normal atmospheric pressure (NAP). (Must not contain chloropicrin.)

Temperature	Dosage grams/meter^3 (lbs/1,000 ft^3)	Exposure hours	Concentration readings—½ hour	Grams/m^3 (oz./1,000 ft^3) at end
Schedule I—Long exposure Normal Atmospheric Pressure (NAP)				
5-9°C (40–49°F)	56 (3.5)	4.5	42	28
10–15° C (50–59° F)	43 (3.0)	4.0	36	24
16–20° C (60–69° F)	40 (2.5)	3.0	30	20
21–23° C (70–74° F)	32 (2.0)	2.5	24	16
24° C up (75° F up)	24 (1.5)	2.5	18	12
Schedule II—Short exposure (NAP)				
5-9° C (40–49° F)	80 (5.0)	2.5	60	40
10–15° C (50–59° F)	64 (4.0)	2.5	48	32
16–20° C (60–69° F)	48 (3.0)	2.5	36	24

Method. A thermal conductivity unit will be used when fumigating under tarps. It is important that the enclosure be measured carefully to insure that the proper dose of fumigant is calculated. Tarpaulins or other enclosures must be as gastight as possible. Plants are generally more tolerant to fumigation in a dormant state. When trees and shrubs are treated, wet rags or other means of introducing moisture into the chamber is required. Fans should be run until equal distribution of the fumigant is noted on the TC unit. See also PPQ Treatment manual.

Special Information. This schedule is also effective against all stages of Japanese beetles.

Precautions. There is evidence that some evergreens, especially narrow-leafed and some azaleas may be injured, under certain circumstances, by this treatment. Plant tolerance tests to methyl bromide have been conducted on most species, and this information is available in the "Handbook of Plant Tolerances to Methyl Bromide."

Certification Period. For the shipment if protected from reinfestation.

IV. Control Procedures—Gypsy Moth

A. *Background.* The control phase of the gypsy moth program is one of containment providing for: (1) Eradicative treatments of isolated infestations found in nonregulated territory; (2) suppression treatments in nonregulated areas in the periphery of the regulated area. Responsibility for most of the control efforts to suppress outbreak populations within the regulated area rests with the States and the U.S. Forest Service. Information on control of the gypsy moth for regulatory purposes is contained in section III of this manual.

Significant changes in control procedures or use of other than authorized pecticides must not be arbitrarily made in the field. Experience may indicate that a particular modification would be of value in accomplishing the objective of a control program. In such cases, consult your supervisor. If a decision is not within his authority, he will know the proper office to contact.

Formulations of several chemical pesticides are currently registered with EPA for control of gypsy moth. The pesticides carbaryl, diflubenzuron, trichlorfon, and acephate have been primarily used in programs involving PPQ participation. These formulations are approved by PPQ for use on gypsy moth control programs.

While certain authorized pesticides can be used in areas involving food and forage crops, efforts should be made to keep spray deposits in such areas at a minimum consistent with attaining the desired objective of the treatment. If conditions favor drift into nontarget areas, treatments should cease. Eradication treatments should be monitored to determine if residues are present. People in the treatment areas must be notified prior to the program. An extensive public relations program is necessary when treatments are planned over residential areas. The objectives of the treatment and the description of the chemicals should be included. (Diflubenzuron is for forest use only.)

Carbaryl is highly toxic to bees. Generally, arrangements are made with the appropriate official of the cooperating State involved in the treatment program to insure that the domestic bee problem is satisfactorily handled. If bee hives are temporarily moved from the area scheduled for treatment, a minimum of one mile outside the spray boundaries is suggested. Bees sometimes fly several miles from the apiary, but as the distance to a treated area increases, the hazard decreases. It is not necessary to remove honey bee colonies from areas that are to be treated with diflubenzuron or trichlorfon.

In recent years pollen traps installed at the entrances of bee hives have been used with some success in lieu of moving the hives. The traps prevent pesticide-contaminated pollen from being carried into the hives. Information on these traps is available from PPQ District Offices.

A. Federal Bee Indemnification Program administered by the Agricultural Stabilization and Conservation Service (ASCS) provides for reimbursement to bee owners who sustain bee losses due to Federal-State treatment programs. This indemnification places certain responsibilities upon PPQ, ASCS, and bee owners before payments for bee losses are considered. PPQ District Offices should be aware of current policy and procedures related to the indemnification program and insure that fulfillment of PPQ's responsibilities is adequately considered in program planning. Guidelines on PPQ responsibility for preventing bee destruction are available from PPQ National Program Planning Staff, Hyattsville, Maryland.

Current pesticide labels contain more specific and detailed information than was required in the past. PPQ personnel charged with planning and directing pest control programs must be familiar with label information. Copies of current pesticide labels are available from the PPQ National Program Planning Staff in Hyattsville, Maryland.

B. *Authorized Pesticides.* The following pesticides are authorized for control of gypsy moth in cooperative Federal-State programs as specifically listed on the pesticide label or in this manual.

Common Name, and Formulations

carbaryl—Sevin®—Sprayable 80%, Sevin— 4 Oil
trichlorfon—Dylox®—1.5 Oil
diflubenzuron—Dimilin®—W-25
acephate—Orthene®—Forest Spray, Orthene®—Tree and Ornamental Spray
pheromone—Disparlure 2.2% in gelatin microcapsules
virus—Gypchek nucleopolyhedrosis virus

C. *Approved Treatments—Gypsy Moth.* 1. Aerial application

a. *Chemical Pesticides.* Use treatments shown in section III, C., 4.c. of this manual (page 25). Exception is diflubenzuron which must be applied at same rate, but mixed in 4.68 liters (½ gallon) water.

diflubenzuron (Dimilin®—W-25):

Spray Mixture—per hectare (per acre): 67.25 grams (0.06 lb.) Water 4.68 liters (½ gallon)
Application rate: 4.68 liters per hectare (½ gallon per acre)
Dosage—Actual Insecticide: 16.81 grams per hectare (0.015 lb. per acre)

Dosages listed will be used to obtain control. Eradication programs (to reduce gypsy moth populations to below detectable levels) will require two applications of these pesticides 7-14 days apart when the larvae are active. Do not make more than two applications per year. This product restricted to forest use. Treatment must not be made to food or feed crops, pastures, urban areas, or residential areas.

b. *Disparlure—Gypsy Moth Male Confusion Technique in Isolated Infestation.* Use subject to approved experimental use permit.

Suppression of low-level populations of gypsy moth (less than 10 egg masses per acre) in isolated infestations can be used in an integrated pest management program. The micro encapsulated material is applied aerially 5 days after male pupation is noted and a second application at 14 days following the first. Methods development and other staff personnel must be consulted concerning the mixing, application, and evaluation of the treatments.

Formulation: 2.2% disparlure in gelatin microcapsules (NCR)
Spray Mixture: 11.8 liters per hectare (1.25 gal. per acre) Add RA1645 latex sticker at 1% by weight of formulated material.
Dosage—Actual Insecticide: 50 grams per hectare (20 grams per acre)

The formulated material must be agitated prior to mixing the sticker. Do not allow this material to settle in aircraft hopper overnight.

c. *Gypchek (virus)—Gypsy Moth Suppression in Integrated Program utilizing Other Controls.* Suppression in gypsy moth populations below 2500 egg masses per acre has been attained by the use of the virus. In demonstration blocks, the virus may be used under the direction of methods development personnel. Careful selection of the areas to be treated and a method for evaluation is essential in the initial treatments with this new biological insecticide.

Gypchek Biological Insecticide consists of polyhedra of the gypsy moth nucleopolyhedrosis virus and inert ingredients. Care must be taken in the mixing and applications of this product. Stickers and ultraviolet protectants may enhance performance of this product. Apply in sufficient spray mixture for thorough and uniform coverage. This spray mixture is for aerial application only. Application is at the rate of 2 gal. (U.S.) finished spray per acre. Use boom and nozzle systems designed to result in droplets with a mass media diameter of 150-400 microns. (For example: Beecomist 275 or flatfan 8006.)

Tank Mixture (per gallon)

Gypchek—Amount to result in 25.0 to 125.0 million gypsy moth potency units per acre.
Molasses—0.25 gallon
Chevron Sticker—3 fl. oz.
Shade*—1.0 lb. (same amt. for 2 gal.)
Water—0.72 gallon

Important: Check pH of water from field source. If pH exceeds 7.5 or is below 5.5, add sufficient acid or base to adjust pH to approximately 7. *Never Use Chlorinated Water in the Spray Formulation.*

Mixing sequence for conventional mixing equipment.

1. Fill tank with water and start agitation.
2. Add acid or base if necessary to adjust pH.
3. Add sunscreen (Shade*) by slowly pouring onto the surface of mixture under agitation. Avoid large lumps of powder.
4. Add molasses by slowly pouring into water and mix thoroughly.
5. Add sticker.
6. Add GYPCHEK. Mixing time can be reduced by premixing Gypchek with a small amount of water in a blender before adding to tank mix. Final formulation should be mixed for 10-30 minutes.

Directions for Use. For foliar protection from gypsy moth larvae make 2 applications 7 to 10 days apart at the rate of 25.0 to 125.0 million gypsy moth potency units per acre in sufficient water for thorough and uniform coverage. Stickers and ultraviolet protectants may enhance performance of this product.

Dosages listed will be used to obtain control. Eradication programs (to reduce gypsy moth populations to below detectable levels) will require two applications of these pesticides 7-14 days apart when the larvae are active.

Diflubenzuron is restricted to forest use.

D. *General.*—1. Size of Treatment Areas. The size of the area to be treated will vary depending upon program objectives, degree and density of infestation, distance from other known infestation, tree growth and terrain, natural spread potentials, and other local conditions. In nonregulated areas, all woody growth should be treated to a minimum distance of ¼ mile from the infested sites. Where program objectives or local conditions so indicate, this minimum should be extended to one mile or more. Treatment of a larger area is indicated where infestation is well established and located in hilly terrain or higher elevations where the danger of spread of the insect is greater.

2. Seasonal Limitations. Formulations of the authorized pesticides are effective only against the larval stages of the gypsy moth. Proper timing of application is essential and is difficult to maintain in a large program. Actual spray dates will vary according to locality and insect development. The normal larval period of the moth is from about May 1 to June 15—a few days earlier in sourthern sections of the infested area and a few days later in the more northern sections.

Pesticides should not be applied until general hatch has occurred within the area. Egg hatch period in a particular locality may extend over a period of 30 days. Generally, female larvae have six instars, male larvae have five instars. Spray applications are most effective when first, second, and third instar larvae are present; avoid treatment of late larval stages with these pesticides. Best results are obtained if applications are made when leaves of oak or other preferred host trees are ⅓ to ½ grown.

3. Equipment. Sevin 4 Oil and Dylox 1.5 Oil are restricted to aircraft application. Sevin Sprayable 80%, Dimilin, and Orthene can be applied by aircraft, mist blowers, and hydraulic spray equipment.

Due to variations of topography and woody growth in areas to be treated, more than one type of aircraft or ground equipment may be required. Multi-engine aircraft should be used to spray large unbroken forest areas and multi-engine or helicopters should be used over population centers. Small single-engine planes and helicopters should be used to treat scattered tree growth, hedgerows, and tree growth adjacent to sensitive areas. Such areas require precise, narrow-swath application. Truck-mounted mist blowers can be used for treating woody growth along roadsides and in residential sections or recreational areas. Backpack mist blowers or sprayers can be used in areas inaccessible to other types of ground equipment.

E. *Public Relations.* Publicity on program operations is handled at the local level by cooperating agencies, who develop rural and community contacts in the immediate area of operation through various communications media available. These activities must be coordinated between agencies concerned to provide uniform, factual information to all segments of public interest. An extensive public relations program is necessary when treating populated areas to inform the public about the pesticides being used. Information on pesticides is available form the being used. Information on pesticides is available from the manufacturers and the Hyattsville staff. All inquiries or complaints on program operations must be checked or investigated promptly and documented.

F. *Biological Control.* Many natural control factors reduce gypsy moth populations. Winter temperatures of -20°F. or lower kill eggs that are unprotected by snow or similar cover; and late spring frosts often reduce larval populations. Insectivorous birds feed to some extent on the caterpillars, and rodents eat larvae and pupae found on the forest floor. During severe outbreaks, when woodlands are entirely stripped of foliage, many larvae die of starvation. The "wilt," a polyhedral virus disease, attacks and kills catepillars and pupae. During some seasons it kills an enormous number of caterpillars and reduces localized infestation.

Numerous species of gypsy moth parasites and predators have been imported from Europe and Asia and released in the infested area in this country. Eleven parasites and two predators have been established. They have been helpful in keeping populations reduced but have not been effective in preventing serious outbreaks and resultant damage.

Formulations of *Bacillus thuringiensis* (Bt), a bacterium that infects and kills many species of lepidopterous larvae, are registered for control of gypsy moth. Bt has not been used operationally on PPQ control programs but has been used by some States on their control programs. The major objections to Bt to date have been the need for multiple applications to obtain foliage protection (which can still leave many larvae in the treated area) and the relatively high cost of the material compared to chemical pesticides.

An ongoing research and development program is studying and testing various potential controls other than conventional chemical pesticides. These include the synthetic sex pheromone disparlure, and sterile moths.

V. Safety Precautions

Personnel safety must be a prime consideration at all times. Safety practices should be stressed in preprogram planning and supervisors must enforce on-the-job safety procedures.

Pesticides authorized for use vary in toxicity. If improperly used, they may injure people, wildlife, bees, etc. Specific safety precautions for each pesticide are listed on the product label. In addition, any special precautions listed in this manual shall be observed.

Keep pesticides in closed, properly-labeled containers in a dry place. Store them where they will not contaminate food or feed and where children and animals cannot reach them.

When handling a pesticide, follow all precautionary labeling.

Should there be contact through spillage or otherwise, wash immediately with soap and water. Should clothing become contaminated, launder before wearing again. Refer to PPQ Treatment Manual Section X for additional information.

Empty pesticide containers should be disposed of in an approved sanitary landfill, by incineration, or by other satisfactory methods approved by the Federal Environmental Protection Agency whereby they will not present a hazard or problem. Arrangements for disposal of such containers should be completed and thoroughly understood by all parties directly involved with a program prior to actual start of operations. PPQ District Offices should be consulted for pertinent information in States where operations are planned.

When applying a pesticide, it is essential to consider the potential impact of the pesticide on all components of the total environment which includes humans, crops, livestock, wildlife, aquatic life, and domesticated honey bees. Avoid contamination of lakes, streams, or ponds.

First Aid Suggestions. In case of accidental poisoning or as soon as any person shows symptoms of having been affected by any pesticides:

1. Remove the victim to a place where he/she will be safe from any further contact with the pesticide.
2. Cause the victim to lie down and keep quiet.
3. Call a physician and inform him/her of the name and formulation of the pesticide in use and as to any first aid given.
4. If needed, the local poison control center telephone number may be found on the inside front cover of the local telephone directory.

[45 FR 15510, Mar. 11, 1980; 45 FR 24856, Apr. 11, 1980, as amended at 48 FR 39602, Sept. 1, 1983]

Subpart—Japanese Beetle

SOURCE: 44 FR 24035, Apr. 24, 1979, unless otherwise noted.

QUARANTINE AND REGULATIONS

§ 301.48 Notice of quarantine, quarantine restrictions on interstate movement of regulated articles.

(a) Pursuant to the provisions of sections 8 and 9 of the Plant Quarantine Act of August 20, 1912, as amended, and section 106 of the Federal Plant Pest Act (7 U.S.C. 161, 162, and 150ee), the Secretary of Agriculture heretofore determined after public hearing to quarantine the States of Alabama, Connecticut, Delaware, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and the District of Columbia in order to prevent the spread of the Japanese beetle, a dangerous insect injurious to cultivated crops and not theretofore widely prevalent or distributed within or throughout the United States.

(b) No person shall move any regulated article interstate from any regulated airport destined to any of the following States except in accordance with the conditions prescribed in this subpart: Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington.

§ 301.48-1 Definitions.

Terms used in the singular form in this subpart shall be deemed to import the plural and vice versa, as the case may demand. The following terms, when used in this subpart shall be construed, respectively, to mean:

Deputy Administrator. The Deputy Administrator of the Animal and Plant Health Inspection Service, for the Plant Protection and Quarantine Programs, U.S. Department of Agriculture, or any other officer or employee of the Department to whom authority has heretofore been, or may heretofore be, delegated to act in his stead.

Inspector. Any employee of the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or other person, authorized by the Deputy Administrator to enforce the provisions of the quarantine and regulations in this subpart.

Interstate. From any State into or through any other State.

Japanese beetle. The live insect known as the Japanese beetle (*Popillia japonica* Newm.) in any stage of development (egg, larva, pupa, or adult).

Person. Any individual, corporation, company, partnership, society, or association, or other organized group of any of the foregoing.

Plant Protection and Quarantine Programs. The organizational unit within the Animal and Plant Health Inspection Service delegated responsibility for enforcing provisions of the Plant Quarantine Act and Federal Plant Pest Act, and quarantines and regulations promulgated thereunder.

Regulated airport. Any airport in a quarantined State declared regulated in accordance with provisions in § 301.48-2 of this subpart.

Regulated articles. Aircraft at or from regulated airports.

State. Any State, territory, or district of the United States, including Puerto Rico.

Treatment manual. The provisions currently contained in the "Japanese Beetle Program Manual," and the "Plant Protection and Quarantine Treatment Manual" which are incorporated by reference.[1, 2]

State Plant Regulatory Official. The authorized official of a State who has responsibility for the operation of the State plant regulatory program.

§ 301.48-2 Authorization to designate, and terminate designation of, regulated airports.

(a) An inspector may declare any airport within a quarantined State to be a regulated airport when he determines that adult populations of Japanese beetle exist during daylight hours at the airport to the degree that aircraft constitute a threat to spread the Japanese beetle and aircraft destined for the States listed in § 301.48(b) may be leaving the airport.

(b) An inspector shall terminate the designation provided for under paragraph (a) of this section when he determines that adult populations of Japanese beetle no longer exist at the airport to the degree that the aircraft

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[1] Pamphlets containing such provisions are available upon request to the Deputy Administrator, Plant Protection and Quarantine Programs, APHIS, U.S. Department of Agriculture, Washington, DC 20250, or from an inspector and are on file at the Federal Register.

[2] NOTE: Incorporation by reference provisions approved by the Director, Office of the Federal Register, on June 15, 1978.

pose a threat to spread the Japanese beetle.

§ 301.48–3 Notification of designation, and termination of designation, of regulated airports.

Upon designating, or terminating the designation of, an airport as regulated, the inspector shall give written notice to the official in charge of the airport that the airport has been designated as a regulated airport or that the designation has been terminated. The inspector shall also give the same information in writing to the official at the airport in charge of each airline or the operator of any other aircraft, which will move a regulated article to any State designated in § 301.48(b). The Deputy Administrator shall also give the same information to the State Plant Regulatory Official of each State designated in § 301.48(b) to which any regulated article will move.

§ 301.48–4 Conditions governing the interstate movement of regulated articles from quarantined States.[3]

A regulated article may only be moved interstate from a regulated airport to any State designated in § 301.48(b) if: (a) The regulated article has been treated in accordance with the Treatment Manual, or (b) if the inspector, upon visual inspection, determines that the regulated article does not present a threat to spread the Japanese beetle because adult beetle populations are not present with regard to the particular regulated article, or (c) if the regulated article arrives and leaves the regulated airport during the same non-daylight period.

§ 301.48–5 Inspection and disposal of regulated articles and pests.

Any properly identified inspector is authorized to stop and inspect, and to seize, destroy, or otherwise dispose of or require disposal of regulated articles and Japanese beetles as provided in section 10 of the Plant Quarantine Act (7 U.S.C. 164a) and section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd) in accordance with instructions issued by the Deputy Administrator.

§ 301.48–6 Movement of live Japanese beetles.

Regulations requiring a permit for and otherwise governing the movement of live Japanese beetles in interstate or foreign commerce are contained in the Federal Plant Pest Regulations in Part 330 of this chapter. Applications for permits for the movement of the pest may be made to the Deputy Administrator.

§ 301.48–7 Nonliability of the Department.

The U.S. Department of Agriculture disclaims liability for any costs incident to inspections or compliance with the provisions of the quarantine and regulations in this subpart other than for the services of the inspector.

(Secs. 8 and 9; 37 Stat. 318, as amended, sec. 106, 71 Stat. 33; (7 U.S.C. 161, 162, 150ee); 37 FR 28464, 28477; 38 FR 19141)

Subpart—Pink Bollworm

SOURCE: 32 FR 16385, Nov. 30, 1967, unless otherwise noted.

QUARANTINE AND REGULATIONS

§ 301.52 Quarantine; restriction on interstate movement of specified regulated articles.

(a) *Notice of quarantine.* Pursuant to the provisions of sections 8 and 9 of the Plant Quarantine Act of August 20, 1912, as amended, and section 106 of the Federal Plant Pest Act (7 U.S.C. 161, 150ee), the Secretary of Agriculture has determined, after public hearing, that it is necessary to quarantine the States of Arizona, Arkansas, California, Louisiana, Mississippi, New Mexico, Nevada, Oklahoma, and Texas, in order to prevent the spread of the pink bollworm (Pectinophora gossypiella Saund.), a dangerous insect injurious to cotton, okra, and kenaf, not heretofore widely prevalent or distributed within and throughout the United States. Under the authority of said provisions, the Secretary hereby quarantines the State of Nevada and continues to quarantine the other specified States with respect to the interstate movement from the quarantined States of the articles described in paragraph (b) of this section, issues the regulations in this subpart governing such movement, and gives notice of said quarantine and regulations.

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[3] Requirements under all other applicable Federal domestic plant quarantines must also be met.

(b) *Quarantine restrictions on interstate movement of specified regulated articles.* No common carrier or other person shall move interstate from any quarantined State any of the following articles (defined in § 301.52-1(m) as regulated articles), except in accordance with the conditions prescribed in this subpart:

(1) Cotton and wild cotton, including all parts of such plants.

(2) Seed cotton.

(3) Cottonseed.

(4) Cottonseed hulls.

(5) Cotton lint.

(6) Cotton linters.

(7) Cotton waste produced at cotton gins, cottonseed oil mills, and cotton textile mills.

(8) Cotton gin trash.

(9) Used bagging and other used wrappers for cotton.

(10) Used cotton harvesting equipment and used cotton ginning and cotton oil mill equipment.

(11) Okra and kenaf, including all parts of such plants, except canned or frozen okra.

(12) Any other products, articles or means of conveyance, of any character whatsoever, not covered by paragraphs (b) (1) through (11) of this section, when it is determined by an inspector that they present a hazard of spread of pink bollworm, and the person in possession thereof has been so notified.

(Sec. 106, 71 Stat. 33; 7 U.S.C. 150ee; sec. 8, 9, 37 Stat. 318; 7 U.S.C. 161, 162; 7 CFR 2.17, 2.51, 371.2(c))

[32 FR 16385, Nov. 30, 1967, as amended at 48 FR 28424, June 22,1983; 48 FR 46262, Oct. 12, 1983; 49 FR 26188, June 27, 1984; 49 FR 37728, Sept. 26, 1984]

§ 301.52-1 Definitions.

Terms used in the singular form in this subpart shall be deemed to import the plural, and vice versa, as the case may demand. The following terms, when used in this subpart, shall be construed, respectively to mean:

(a) *Certificate.* A document issued or authorized to be issued under this subpart by an inspector to allow the interstate movement of regulated articles to any destination.

(b) *Compliance agreement.* A written agreement between a person engaged in growing, handling, or moving regulated articles, and the Plant Protection and Quarantine Programs, wherein the former agrees to comply with the requirements of this subpart identified in the agreement by the inspector who executes the agreement on behalf of the Plant Protection and Quarantine Programs as applicable to the operations of such person.

(c) *Deputy Administrator.* The Deputy Administrator of the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or any other officer or employee of said Service to whom authority to act in his stead has been or may hereafter be delegated.

(d) *Generally infested area.* Any part of a regulated area not designated as a suppressive area in accordance with § 301.52-2.

(e) *Infestation.* The presence of the pink bollworm or the existence of circumstances that make it reasonable to believe that pink bollworm is present.

(f) *Inspector.* Any employee of the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or other person authorized by the Deputy Administrator to enforce the provisions of the quarantine and regulations in this subpart.

(g) *Interstate.* From any State, territory, or district of the United States into or through any other State, territory, or district of the United States (including Puerto Rico).

(h) *Limited permit.* A document issued or authorized to be issued by an inspector to allow the interstate movement of noncertified regulated articles to a specified destination for limited handling, utilization, or processing or for treatment.

(i) *Moved* (*movement, move*). Shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved by any means. "Movement" and "move" shall be construed accordingly.

(j) *Person.* Any individual, corporation, company, society, or association, or other organized group of any of the foregoing.

(k) *Pink bollworm.* The live insect known as the pink bollworm of cotton (Pectinophora gossypiella Saund.), in any stage of development.

(l) *Regulated area.* Any quarantined State, territory, or district, or any portion thereof, listed as a regulated area in § 301.52-2a by the Deputy Administrator in accordance with § 301.52-2(a).

(m) *Regulated articles.* Any articles described in § 301.52(b).

(n) *Restricted destination permit.* A document issued or authorized to be issued by an inspector to allow the interstate movement of regulated articles not certified under all applicable Federal domestic plant quarantines to a specified destination for other than scientific purposes.

(o) *Scientific permit.* A document issued by the Deputy Administrator to allow the interstate movement to a specified destination of regulated articles for scientific purposes.

(p) *Suppressive area.* That part of a regulated area where eradication of infestation is undertaken as an objective, as designated by the Deputy Administrator under § 301.52-2(a).

(q) *Treatment manual.* The provisions currently contained in the "Manual of Administratively Authorized Procedures To Be Used Under the Pink Bollworm Quarantine" and the "Fumigation Procedures Manual" and any amendments thereto.[1]

[32 FR 16385, Nov. 30, 1967, as amended at 35 FR 2859, Feb. 12, 1970; 36 FR 24917, Dec. 24, 1971; 37 FR 10554, May 25, 1972]

§ 301.52-2 Authorization for Deputy Administrator to list regulated areas and suppressive or generally infested areas, and articles which are exempt from certification and permit requirements.

The Deputy Administrator shall publish and amend from time to time as the facts warrant, the following lists:

(a) *List of regulated areas and suppressive or generally infested areas.* The Deputy Administrator shall list as regulated areas in a supplemental regulation designated as § 301.52-2a, the quarantined States, territories, or districts, or portions thereof, in which pink bollworm has been found or in which there is reason to believe that pink bollworm is present, or which it is deemed necessary to regulate because of their proximity to infestation or their inseparability for quarantine enforcement purposes from infested localities. The Deputy Administrator, in the supplemental regulation, may divide any regulated area into a suppressive area and a generally infested area in accordance with the definitions thereof in § 301.52-1. Less than an entire quarantined State, territory, or district will be designated as a regulated area only if the Deputy Administrator is of the opinion that:

(1) The State, territory, or district has adopted and is enforcing a quarantine or regulations which imposes restrictions on the intrastate movement of the regulated articles which are substantially the same as those which are imposed with respect to the interstate movement of such articles under this subpart; and

(2) The designation of less than the entire State, territory, or district, as a regulated area will otherwise be adequate to prevent the interstate spread of the pink bollworm.

(b) *List of articles which are exempt from certification and permit requirements.* The Deputy Administrator may, in a supplemental regulation designated as § 301.52-2b, list regulated articles which shall be exempt from the certification and permit requirements of § 301.52-3 under such conditions as he may prescribe, if he finds that facts exist as to the pest risk involved in the movement of such regulated articles which make it safe to so relieve such requirements.

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[1] A pamphlet containing such provisions is available, upon request, from the Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250, or from an inspector.

§ 301.52-2a Regulated area; suppressive and generally infested areas.

The civil divisions and part of civil divisions described below are designated as pink bollworm regulated areas within the meaning of the provisions of this subpart; and such regulated areas are hereby divided into generally infested areas or suppressive areas as indicated below.

Arizona

(1) *Generally infested area.* Entire State.

(2) *Suppressive area.* None.

Arkansas

(1) *Generally infested area.* None.

(2) *Suppressive area.*

Desha County. That area of the county lying south and southwest of the Arkansas River.

California

(1) *Generally infested area.*

Imperial County. The entire county.

Inyo County. The entire county.

Los Angeles County. The entire county.

Orange County. The entire county.

Riverside County. The entire county.

San Bernardino County. The entire county.

San Diego County. The entire county.

(2) *Suppressive area.*

Fresno County. The entire county.

Kern County. The entire county.

Kings County. The entire county.

Madera County. The entire county.

Merced County. The entire county.

San Benito County. The entire county.

Tulare County. The entire county.

Louisiana

(1) *Generally infested area.* None.

(2) *Suppressive area.*

Caddo Parish. The entire parish.

Mississippi

(1) *Generally infested area.* None.

(2) *Suppressive area.*

Washington County. That portion of sec. 11 and 14, T. 18 N., R. 7 W. lying nothwest of old U.S. Highway 61.

That portion of sec. 12, T. 18 N., R. 7 W. lying west of county road 269 and that portion of said section lying south of county road 268 and northwest of old U.S. Highway 61.

That portion of sec. 8, T. 18 N., R. 7 W. lying east of county road 253 and north of the northern most Illinois Central Gulf Railroad track.

That portion of sec. 17, T. 18 N., R. 7 W. lying east of U.S. Highway 253.

That portion of sec. 22, T. 18 N., R. 7 W. lying north of U.S. Highway 82 and west of old U.S. Highway 61.

Sec. 32, 33, and 34, T. 19 N., R. 7 W.

Sec. 3, 4, 5, 9, 10, 15, and 16, T. 18 N., R. 7 W.

Nevada

(1) *Generally infested area.*

Clark County. The entire county.

Nyle County. The entire county.

(2) *Suppressive area.* None.

New Mexico

(1) *Generally infested area.* Entire State.

(2) *Suppressive area.* None.

Oklahoma

(1) *Generally infested area.* Entire State.

(2) *Suppressive area.* None.

Texas

(1) *Generally infested area.* Entire State.

(2) *Suppressive area.* None.

(Secs. 8, 9, 37 Stat. 318, as amended, sec. 106, 71 Stat. 33 (7 U.S.C. 161, 162, 150ee); 37 FR 28464, 28477; 38 FR 19140; 7 CFR 301.52-2, as amended; sec. 106, 71 Stat. 33; 7 U.S.C. 150ee; sec. 8, 9, 37 Stat. 318; 7 U.S.C. 161, 162; 7 CFR 2.17, 2.51, 371.2(c))

[42 FR 13533, Mar. 11, 1977; 42 FR 25849, May 20, 1977, as amended at 43 FR 25135, June 9, 1978; 44 FR 45595, Aug. 13, 1979; 45 FR 43368, June 27, 1980; 46 FR 21149, Apr. 9, 1981; 47 FR 8983, Mar. 3, 1982; 47 FR 33667, Aug. 4, 1982; 48 FR 28424, June 22, 1983; 48 FR 46262, Oct. 12, 1983; 49 FR 26188, June 27, 1984; 49 FR 37728, Sept. 26, 1984; 50 FR 12216, Mar. 28, 1985; 50 FR 25688, June 21, 1985]

§ 301.52-2b Exemptions and interpretation.

(a) The following articles are exempted[2] from the certification and permit requirements of this subpart if they meet the applicable conditions prescribed in paragraphs (a) (1) through (3) of this section and have not been exposed to infestation after ginning, compression, or other handling as prescribed in said paragraphs:

(1) Baled cotton lint, linters and lint cleaner waste, if compressed to a minimum of 22 pounds per cubic foot.

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[2] The articles hereby exempted remain subject to applicable restrictions under other quarantines.

(2) Baled cotton lint moving from the generally infested area into the suppressive area, if the lint is from seed cotton produced in the suppressive area and moved to the generally infested area for ginning, provided the identity of the baled cotton lint is maintained.

(3) Samples of cotton lint and cotton linters of the usual trade size. The samples may be assembled in a single package for shipment.

(b) Edible okra is exempted from the certification and permit requirements of this subpart from December 1 to May 15 of any year except for okra consigned to California which is exempted only during the period January 1 to March 15.

(c) In the administration of § 301.52-4(b), edible okra shall be deemed to be eligible for a limited permit, without any limitation as to handling, utilization, or processing or requirement of treatment, if it is moving during the period May 16 through November 30 of any year, to any destination in Colorado, Connecticut, Delaware, Idaho, Indiana, Iowa, Kansas, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Dakota, Utah, Vermont, Washington, West Virginia, Wisconsin, or Wyoming, or the District of Columbia, or that part of Virginia, Missouri, Illinois, or Kentucky north of the 38th parallel.

[33 FR 11585, Aug. 15, 1968]

§ 301.52-3 Conditions governing the interstate movement of regulated articles from quarantined States.[3]

Any regulated articles may be moved interstate from any quarantined State under the following conditions:

(a) From any regulated area, with certificate or permit issued and attached in accordance with §§ 301.52-4 and 301.52-7 if moved:

(1) From any regulated area into or through any point outside of the regulated areas; or

(2) From any generally infested area into or through any suppressive area; or

(3) Between any noncontiguous suppressive areas; or

(4) Between contiguous suppressive areas when it is determined by the inspector that the regulated articles present a hazard of the spread of the pink bollworm and the person in possession thereof has been so notified; or

(b) From any regulated area, without certificate or permit if moved;

(1) Under the provisions of § 301.52-2b which exempts certain articles from certificate and permit requirements; or

(2) From a generally infested area to a contiguous generally infested area; or

(3) From a suppressive area to a contiguous generally infested area; or

(4) Between contiguous suppressive areas unless the person in possession of the articles has been notified by an inspector that a hazard of spread of the pink bollworm exists; or

(5) Through or reshipped from any regulated area if the articles originated outside of any regulated area and if the point of origin of the articles is clearly indicated, their identity has been maintained and they have been safeguarded against infestation while in the regulated area in a manner satisfactory to the inspector; or

(c) From any area outside the regulated areas, without a certificate or permit if the regulated articles are exempted under the provisions of § 301.52-2b or if the point of origin of such movement is clearly indicated on the articles or shipping document which accompanies the articles and if the movement is not made through any regulated area.

§ 301.52-4 Issuance and cancellation of certificates and permits.

(a) Certificates may be issued for any regulated articles by any inspector if he determines that they are eligible for certification for movement to any destination under all Federal domestic plant quarantines applicable to such articles and:

(1) Have originated in noninfested premises in a regulated area and have

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[3] Requirements under all other applicable Federal domestic plant quarantines must also be met.

not been exposed to infestation while within the regulated areas; or

(2) Upon examination, have been found to be free of infestation; or

(3) Have been treated to destroy infestation in accordance with the treatment manual; or

(4) Have been grown, produced, manufactured, stored, or handled in such manner that no infestation would be transmitted thereby.

(b) Limited permits may be issued by an inspector to allow interstate movement of regulated articles, not eligible for certification under this subpart, to specified destinations for limited handling, utilization, or processing, or for treatment in accordance with the treatment manual, when upon evaluation of the circumstances involved in each specific case he determines that such movement will not result in the spread of the pink bollworm and requirements of other applicable Federal domestic plant quarantines have been met.

(c) Restricted destination permits may be issued by an inspector to allow the interstate movement of regulated articles to any destination permitted under all applicable Federal domestic plant quarantines (for other than scientific purposes) if such articles are not eligible for certification under all such quarantines but would otherwise qualify for certification under this subpart.

(d) Scientific permits may be issued by the Deputy Administrator to allow the interstate movement of regulated articles for scientific purposes under such conditions as may be prescribed in each specific case by the Deputy Administrator.

(e) Certificate, limited permit, and restricted destination permit forms may be issued by an inspector to any person for use by the latter for subsequent shipments provided such person is operating under a compliance agreement; and any such person may be authorized by an inspector to reproduce such forms on shipping containers or otherwise. Any such person may use the certificate forms, or reproductions of such forms, for the interstate movement of regulated articles from the premises of such person identified in the compliance agreement if such person has made one of the determination specified in paragraph (a) of this section with respect to such articles. Any such person may use the limited permit forms, or reproductions of such forms, for interstate movement of regulated articles to specific destinations authorized by the inspector in accordance with paragraph (b) of this section. Any such person may use the restricted destination permit forms, or reproductions of such forms, for the interstate movement of regulated articles not eligible for certification under all Federal domestic plant quarantines applicable to such articles, under the conditions specified in paragraph (c) of this section.

(f) Any certificate or permit which has been issued or authorized may be withdrawn by the inspector if he determines that the holder thereof has not complied with any condition for the use of such document imposed by this subpart.

§ 301.52-5 Compliance agreements; and cancellation thereof.

(a) Any person engaged in the business of growing, handling, or moving regulated articles may enter into a compliance agreement to facilitate the movement of such articles under this subpart. Compliance agreement forms may be obtained from the Deputy Administrator or an inspector.

(b) Any compliance agreement may be cancelled by the inspector who is supervising its enforcement whenever he finds, after notice and reasonable opportunity to present views has been accorded to the other party thereto, that such other party has failed to comply with the conditions of the agreement.

§ 301.52-6 Assembly and inspection of regulated articles.

Persons (other than those authorized to use certificates, limited permits, or restricted destination permits, or reproductions thereof, under § 301.52-4(e)) who desire to move interstate regulated articles which must be accompanied by a certificate or permit shall, as far in advance as possible, request an inspector to examine the articles prior to movement.

Such articles shall be assembled at such points and in such manner as the inspector designates to facilitate inspection.

§ 301.52-7 Attachment and disposition of certificates or permits.

(a) If a certificate or permit is required for the interstate movement of regulated articles, the certificate or permit shall be securely attached to the outside of the container in which such articles are moved, except that, where the certificate or permit is attached to the waybill or other shipping document, and the regulated articles are adequately described on the certificate, permit, or shipping document, the attachment of the certificate or permit to each container of the articles is not required.

(b) In all cases, certificates or permits shall be furnished by the carrier to the consignee at the destination of the shipment.

§ 301.52-8 Inspection and disposal of regulated articles and pests.

Any properly identified inspector is authorized to stop and inspect, and to seize, destroy, or otherwise dispose of, or require disposal of regulated articles and pink bollworms as provided in section 10 of the Plant Quarantine Act (7 U.S.C. 164a) and section 105 of the Plant Pest Act (7 U.S.C. 150dd), in accordance with instructions issued by the Deputy Administrator.

§ 301.52-9 Movement of live pink bollworms.

Regulations requiring a permit for, and otherwise governing the movement of live pink bollworms in interstate or foreign commerce are contained in the Federal Plant Pest regulations in Part 330 of this chapter. Applications for permits for the movement of the pest may be made to the Deputy Administrator.

§ 301.52-10 Nonliability of the Department.

The U.S. Department of Agriculture disclaims liability for any costs incident to inspections or compliance with the provisions of the quarantine and regulations in this subpart, other than for the services of the inspector.

Subpart—Mexican Fruit Fly Quarantine and Regulations

AUTHORITY: Secs. 8 and 9, 37 Stat. 318, as amended (7 U.S.C. 161, 162); secs. 105 and 106, 71 Stat. 32, 71 Stat. 33 (7 U.S.C. 150dd, 150ee); 37 FR 28464, 28477, as amended; 45 FR 8564, 8565, unless otherwise noted.

SOURCE: 48 FR 54580, Dec. 6, 1983, unless otherwise noted.

§ 301.64 Quarantine and regulations; restrictions on interstate movement of regulated articles.[1, 2]

(a) *Quarantine and regulations.* The Secretary of Agriculture hereby quarantines the State of Texas in order to prevent the artificial spread of the Mexican fruit fly, a dangerous plant pest not heretofore widely prevalent or distributed within and throughout the United States; and hereby establishes regulations governing the interstate movement of regulated articles specified in § 301.64-2.

(b) *Restrictions on interstate movement of regulated articles.* No common carrier or other person shall move from any regulated area any regulated article interstate into or through Arizona; California; Florida; Guam; Hawaii; Puerto Rico; Texas; the Virgin Islands of the United States; and Iberia, Jefferson, Lafayette, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles. St. Mary and Terrebonne Parishes in Louisiana, except in accordance with the conditions prescribed in this subpart.

[48 FR 54580, Dec. 6, 1983, as amended at 49 FR 33992, Aug. 28, 1984; 50 FR 14087, Apr. 10, 1985]

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[1] Any properly identified inspector is authorized to stop and inspect persons and means of conveyance, and to seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of regulated articles as provided in section 10 of the Plant Quarantine Act (7 U.S.C. 164a) and sections 105 and 107 of the Federal Plant Pest Act (7 U.S.C. 150dd, 150ff).

[2] Regulations concerning the movement of live Mexican fruit flies in interstate or foreign commerce are contained in Part 330 of this chapter.

§ 301.64-1 Definitions.

Terms used in the singular form in this subpart shall be construed as a plural and vice versa, as the case may demand. The following terms, when used in this subpart, shall be construed, respectively, to mean:

(a) *Certificate.* A document which is issued for a regulated article by an inspector or by a person operating under a compliance agreement, and which represents that such article is eligible for interstate movement in accordance with § 301.64-5(c).

(b) *Compliance agreement.* A written agreement between Plant Protection and Quarantine and a person engaged in the business of growing, handling, or moving regulated articles, wherein the person agrees to comply with the provisions of this subpart and any conditions imposed pursuant thereto.

(c) *Deputy Administrator.* The Deputy Administrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine, or any officer or employee of the Department to whom authority to act in his/her stead has been or may hereafter be delegated.

(d) *Infestation.* The presence of the Mexican fruit fly or the existence of circumstances that make it reasonable to believe that the Mexican fruit fly is present.

(e) *Inspector.* Any employee of Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or other person, authorized by the Deputy Administrator in accordance with law to enforce the provisions of the quarantines and regulations in this subpart.

(f) *Interstate.* From any State into or through any other State.

(g) *Limited permit.* A document which is issued for a regulated article by an inspector or by a person operating under a compliance agreement, and which represents that such regulated article is eligible for interstate movement in accordance with § 301.64-5(b).

(h) *Mexican fruit fly.* The insect known as Mexican fruit fly (*Anastrepha ludens* (Loew)) in any stage of development.

(i) *Moved (movement, move).* Shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved by any means. "Movement" and "move" shall be construed accordingly.

(j) *Person.* Any individual, partnership, corporation, company, society, association, or other organized group.

(k) *Plant Protection and Quarantine.* The organizational unit within the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, delegated responsibility for enforcing provisions of the Plant Quarantine Act, the Federal Plant Pest Act, and related legislation, and quarantines and regulations promulgated thereunder.

(l) *Regulated area.* Any State, or any portion thereof, listed in § 301.64-3(c) or otherwise designated as a regulated area in accordance with § 301.64-3(b).

(m) *Regulated article.* Any article listed in § 301.64-2 of otherwise designated as a regulated article in accordance with § 301.64-2(c).

(n) *State.* Each of the several States of the United States, the District of Columbia, Guam, Northern Mariana Islands, Puerto Rico, the Virgin Islands of the United States and all other territories and possessions of the United States.

§ 301.64-2 Regulated articles.

(a) The following fruits are regulated articles:

Apple (*Malus sylvestris*)
Apricot (*Prunus armeniaca*)
Avocado (*Persea americana*)
Calamondin orange (*X citrofortunella mitis*)
Cherimoya (*Annona cherimola*)
Citrus citron (*Citrus medica*)
Custard apple (*Annona reticulata*)
Grapefruit (*Citrus paradisi*)
Guava (*Pisdium guajava*)
Japanese plum (*Prunus salicina*)
Kumquat (*Fortunella japonica*)
Lemon (*Citrus limon*) except Eureka, Lisbon, and Villa Franca cultivars (smooth-skinned sour lemon)
Lime (*Citrus aurantiifolia*) except sour limes
Mamey (*Mammea americana*)
Mandarin orange (tangerine) (*Citrus reticulata*)

Mango (*Mangifera indica*)
Nectarine (*Prunus persica*)
Peach (*Prunus persica*)
Pear (*Pyrus communis*)
Plum (*Prunus americana*)
Pomegranate (*Punica granatum*)
Prune, Plum (*Prunus domestica*)
Plummelo (Shaddock) (*Citrus maxima*)
Quince (*Cydonia oblonga*)
Rose apple (*Syzygium jambos* (*Eugenia jambos*))
Sour orange (*Citrus aurantium*)
Sapote (*Casimiroa spp.*)
Sapota, Sapodilla (Sapotaceae)
Sargentia, yellow chapote (*Sargentia greggii*)
Spanish plum, purple mombin or Ciruela (*Spondias spp.*)
Sweet orange (*Citrus sinensis*)

Except that the list does not include any fruits which have been canned, or frozen below −17.8°C (0°F);

(b) Soil within the drip line of plants which are producing or have produced the fruits listed in paragraph (a) of this section, and

(c) Any other product, article, or means of conveyance, of any character whatsoever, not covered by paragraph (a) or paragraph (b) of this section, when it is determined by an inspector that it presents a risk of spread of the Mexican fruit fly and the person in possession thereof has actual notice that the product, article or means of conveyance is subject to the restrictions of this section.

§ 301.64-3 Regulated areas.

(a) Except as otherwise provided in paragraph (b) of this section, the Deputy Administrator shall list as a regulated area in paragraph (c) of this section, each quarantined State, or each portion thereof, in which the Mexican fruit fly has been found by an inspector or in which the Deputy Administrator has reason to believe that the Mexican fruit fly is present, or each portion of a quarantined State which the Deputy Administrator deems necessary to regulate because of its proximity to the Mexican fruit fly or its inseparability for quarantine enforcement purposes from localities in which the Mexican fruit fly occurs. Less than an entire quarantined State will be designated as a regulated area only if the Deputy Administrator determines that:

(1) The State has adopted and is enforcing a quarantine or regulation which imposes restrictions on the intrastate movement of the regulated articles which are substantially the same as those which are imposed with respect to the interstate movement of such articles under this subpart; and

(2) The designation of less than the entire State as a regulated area will otherwise be adequate to prevent the artificial interstate spread of the Mexican fruit fly.

(b) The Deputy Administrator or an inspector may temporarily designate any nonregulated area in a quarantined State as a regulated area in accordance with the criteria specified in paragraph (a) of this section for listing such area. Written notice of such designation shall be given to the owner or person in possession of such nonregulated area, and, thereafter, the interstate movement of any regulated article from such area shall be subject to the applicable provisions of this subpart. As soon as practicable, such area shall be added to the list in paragraph (c) of this section or such designation shall be terminated by the Deputy Administrator or an inspector, and notice thereof shall be given to the owner or person in possession of the area.

(c) The areas described below are designated as regulated areas:

TEXAS

Brooks County. The entire county.

Cameron County. The entire county.

Dimmit County. The entire county.

Hidalgo County. The entire county.

Jim Hogg County. The entire county.

Jim Wills County. That portion of the county lying south of Highway 141 and a line projected due west to the Jim Wills-Duval County line from the point where Highways 141 and 281 intersects.

La Salle County. The entire county.

Starr County. The entire county.

Webb County. The entire county.

Willacy County. The entire county.

Zapata County. The entire county.

[48 FR 54580, Dec. 6, 1983, as amended at 49 FR 33992, Aug. 28, 1984; 50 FR 14087, Apr. 10, 1985]

§ 301.64-4 Conditions governing the interstate movement of regulated articles from regulated areas in quarantined States.[3]

Any regulated article may be moved from any regulated area in a quarantined State interstate into or through Arizona, California, Florida, Guam, Hawaii, Puerto Rico, Texas, the Virgin Islands of the United States and Iberia, Jefferson, Lafayette, Lafourche, Orlean, Plaquemeines, St. Bernard, St. Charles, St. Mary and Terrebonne Parishes in Louisiana only if moved under the following conditions:

(a) With a certificate or limited permit issued and attached in accordance with §§ 301.64-5 and 301.64-8;

(b) Without a certificate or limited permit, if:

(1) Moved to any State not listed in § 301.64(b) or

(2)(i) Moved directly through (moved without stopping except under normal traffic conditions, such as for traffic lights or stop signs) any regulated area in an enclosed vehicle or completely enclosed by a covering adequate to prevent the introduction of the Mexican fruit fly (such as canvas, plastic , or closely woven cloth), and

(ii) The article originated outside of any regulated area, and

(iii) The point of origin of the article is clearly indicated by shipping documents and its identity has been maintained.

§ 301.64-5 Issuance and cancellation of certificates and limited permits.

(a) A certificate shall be issued by an inspector for the movement of a regulated article if such inspector:

(1)(i) Determines that it has been treated under the direction of an inspector[4] in accordance with § 301.64-10; or

(ii) Determines based on inspection of the premises of origin that the premises are free from the Mexican fruit fly and the article has not been exposed to Mexican fruit fly; or

(iii) Determines based on inspection of the article that it is free from Mexican fruit fly; and

(2) Determines that it is to be moved in compliance with any additional emergency conditions necessary to prevent the spread of the Mexican fruit fly pursuant to section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd);[5] and

(3) Determines that it is eligible for unrestricted movement under all other Federal domestic plant quarantines and regulations applicable to such article.

(b) A limited permit shall be issued by an inspector for the movement of a regulated article if such inspector:

(1) Determines, in consultation with the Deputy Administrator, that it is to be moved to a specified destination for specified handling, utilization, processing, or for treatment in accordance with § 301.64-10 (such destination and other conditions to be specified on the limited permit), when, upon evaluation of all of the circumstances involved in each case, it is determined that such movement will not result in the spread of the Mexican fruit fly because life stages of the pest will be destroyed by such specified handling, utilization, processing, or treatment;

(2) Determines that it is to be moved in compliance with any additional emergency conditions necessary to prevent the spread of the Mexican fruit fly pursuant to section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd);[5] and

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[3] Requirements under all other applicable Federal domestic plant quarantines and regulations must also be met.

[4] Treatments shall be monitored by inspectors in order to assure compliance with the requirements in this subpart.

[5] Section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd) provides among other things, that the Secretary of Agriculture may, whenever he deems it necessary as an emergency measure in order to prevent the dissemination of any plant pest new to or not theretofore known to be widely prevalent or distributed within and throughout the United States seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of, in such manner as he deems appropriate, any product or article of any character whatsoever, or means or conveyance, which is moving into or through the United States or interstate, and which he has reason to believe is infested or infected by or contains any such plant pest.

(3) Determines that it is eligible for such movement under all other Federal domestic plant quarantines and regulations applicable to such article.

(c) Certificates and limited permits for use for movement of regulated articles may be issued by an inspector or person engaged in the business of growing, handling, or moving regulated articles provided such person is operating under a compliance agreement. Any such person may execute and issue a certificate for the interstate movement of a regulated article if such person has treated such regulated article to destroy infestation in accordance with the provisions in § 301.64-10 and the inspector has made the determination that such article is otherwise eligible for a certificate in accordance with paragraph (a) of this section; or if the inspector has made the determination that such article is eligible for a certificate in accordance with paragraph (a) of this section without such treatment. Any such person may execute and issue a limited permit for interstate movement of a regulated article when the inspector has made the determination that such article is eligible for a limited permit in accordance with paragraph (b) of this section.

(d) Any certificate or limited permit which has been issued or authorized may be withdrawn by an inspector if such inspector determines that the holder thereof has not complied with any conditions under the regulations for the use of such document. The reasons for the withdrawal shall be confirmed in writing as promptly as circumstances permit. Any person whose certificate or limited permit has been withdrawn may appeal the decision in writing to the Deputy Administrator within ten (10) days after receiving the written notification of the withdrawal. The appeal shall state all of the facts and reasons upon which the person relies to show that the certificate or limited permit was wrongfully withdrawn. The Deputy Administrator shall grant or deny the appeal, in writing, stating the reasons for such decision, as promptly as circumstances permit. If there is a conflict to any material fact, a hearing shall be held to resolve such conflict. Rules of Practice concerning such a hearing will be adopted by the Deputy Administrator.

§ 301.64-6 Compliance agreement and cancellation thereof.

(a) Any person engaged in the business of growing, handling, or moving regulated articles may enter into a compliance agreement to facilitate the movement of regulated articles under this subpart.[6] The compliance agreement shall be a written agreement between a person engaged in such a business and Plant Protection and Quarantine, wherein the person agrees to comply with the provisions of this subpart and any conditions imposed pursuant thereto.

(b) Any compliance agreement may be cancelled orally or in writing by the inspector who is supervising its enforcement whenever the inspector finds that such person has failed to comply with the provisions of this subpart or any conditions imposed pursuant thereto. If the cancellation is oral, the decision and the reasons therefore shall be confirmed in writing, as promptly as circumstances permit. Any person whose compliance agreement has been cancelled may appeal the decision, in writing, within ten (10) days after receiving written notification of the cancellation. The appeal shall state all of the facts and reasons upon which the person relies to show that the compliance agreement was wrongfully cancelled. The Deputy Administrator shall grant or deny the appeal, in writing, stating the reasons for such decision, as promptly as circumstances permit. If there is a conflict as to any material fact, a hearing shall be held to resolve such conflict. Rules of Practice concerning such a hearing will be adopted by the Deputy Administrator.

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[6] Compliance Agreement forms are available without charge from the Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, Federal Building, Hyattsville, MD 20782, and from local offices of the Plant Protection and Quarantine. (Local offices are listed in telephone directories).

§ 301.64–7 Assembly and inspection of regulated articles.

(a) Any person (other than a person authorized to issue certificates or limited permits under § 301.64–5(c)), who desires to move interstate a regulated article accompanied by a certificate or limited permit shall, as far in advance as possible (should be no less than 48 hours before the desired movement), request an inspector[7] to take any necessary action under this subpart prior to movement of the regulated article.

(b) Such article shall be assembled at such point and in such manner as the inspector designates as necessary to comply with the requirements of this subpart.

§ 301.64–8 Attachment and disposition of certificates and limited permits.

(a) A certificate or limited permit required for the interstate movement of a regulated article, at the times during such movement, shall be securely attached to the outside of the containers containing the regulated article, securely attached to the article itself if not in a container, or securely attached to the consignee's copy of the accompanying waybill or other shipping document; *Provided however*, That the requirements of this section may be met by attaching the certificate or limited permit to the consignee's copy of the waybill or other shipping documents only if the regulated article is sufficiently described on the certificate, limited permit, or shipping document to identify such article.

(b) The certificate or limited permit for the movement of a regulated article shall be furnished by the carrier to the consignee at the destination of the shipment.

§ 301.64–9 Costs and charges.

The service of the inspector shall be furnished without cost. The U.S. Department of Agriculture will not be responsible for any costs or charges incident to inspections or compliance with the provisions of the quarantine and regulations in this subpart, other than for the services of the inspector.

§ 301.64–10 Treatments.

Treatments for regulated articles shall be as follows:

(a) Apple, grapefruit, orange, pear, plum, pomegranate, quince and tangerine:

Cold treat the fruit according to one of the following:

18 days of 0.55°C (33°F) or below
20 days at 1.11°C (34°F) or below
22 days at 1.66°C (35°F) or below

(b) Soil within the drip line of plants which are producing or have produced fruits listed in § 301.64–2(a):

Host fruits must be removed from host plants prior to treatment.

Material: Diazinon
Dosage: Apply five pounds a.i. per acre (0.12 pounds or two ounces avdp. per 1,000 square feet)
Method: Soil drench using ground equipment. Apply with 130 gallons of water per acre (three gallons per 1,000 square feet) under hosts
Frequency/timing: Three applications at 14 to 16 day intervals as needed. Applications may be repeated if infestations become established.

In addition to the above, Diazinon must be applied in accordance with all label directions.

[48 FR 54580, Dec. 6, 1983, as amended at 50 FR 9788, Mar. 12, 1985]

Subpart—Citrus Canker

SOURCE: 50 FR 51231, Dec. 13, 1985, unless otherwise noted.

NOTICE OF QUARANTINE AND REGULATIONS

§ 301.75 Restrictions and prohibitions.

(a) No common carrier or other person shall move interstate from any quarantined area any regulated article except in accordance with the conditions prescribed in this subpart.

(b) No common carrier or other person shall move interstate from an area not designated as a quarantined area to a commercial citrus producing area any regulated article which originated in a quarantined area and which was moved from the quarantined area pursuant to a limited permit.

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[7] Inspectors are assigned to local offices of Plant Protection and Quarantine which are listed in telephone directories. Information concerning such local offices may also be obtained from the deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, Federal Building, Hyattsville, MD 20782.

§ 301.75-1 Definitions.

Terms used in the singular form in this subpart shall be construed as the plural and vice versa, as the case may demand. The following terms, when used in this subpart, shall be construed respectively to mean:

Certificate. A document which is issued for a regulated article by an inspector or by a person operating under a compliance agreement, and which represents that such article is eligible for interstate movement in accordance with § 301.75-7.

Citrus canker. The plant disease caused by the bacteria, *Xanthomonas campestris* pv. *citri* (Hasse) Dowson, in any stage of development.

Compliance agreement. A written agreement between Plant Protection and Quarantine and a person engaged in the business of growing, handling, or moving regulated articles, wherein the person agrees to comply with the provisions of this subpart and any conditions imposed pursuant thereto.

Container plant. Any plant in a container propagated for replanting or ornamental purposes.

Deputy Administrator. The Deputy Administrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine, or any officer or employee of the Department to whom authority to act in his or her stead has been or may hereafter be delegated.

Grove. Any permanent stand of plants maintained for the purpose of producing fruit.

Infestation or infested. The presence of citrus canker or the existence of circumstances that make it reasonable to believe that citrus canker is present.

Inspector. Any employee of Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or other person, authorized by the Deputy Administrator in accordance with law to enforce the provisions of this subpart.

Interstate. From any State into or through any other State.

Limited permit. A document which is issued for a regulated article by an inspector or a person operating under a compliance agreement and which represents that such regulated article is eligible for interstate movement in accordance with § 301.75-7.

Moved. Shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved by any means.

Movement or move. The act of shipping, offering for shipment to a common carrier, receiving for transportation or transporting by a common carrier or carrying, transporting, moving, or allowing to be moved by any means.

Nursery. Any premises at which plants are grown or maintained for the purpose of propagating or replanting for ornamental purposes but not including any grove on such premises.

Person. Any individual, partnership, corporation, company, society, association, or other organized group.

Plant Protection and Quarantine. The organizational unit within the Animal and Plant Health Inspection Service, United States Department of Agriculture, delegated responsibility for enforcing provisions of the Plant Quarantine Act, the Federal Plant Pest Act, and related legislation, and quarantines and regulations promulgated thereunder.

Quarantined area. Any State, or any portion thereof, listed in § 301.75-3(a) or otherwise designated as a quarantined area in accordance with § 301.75-3(b).

Regulated article. Any article listed in § 301.75-2(a) or otherwise designated as a regulated article in accordance with § 301.75-2(b).

State. Each of the several States of the United States, the District of Columbia, Guam, the Northern Mariana Islands, Puerto Rico, the Virgin Islands of the United States, and all other Territories and Possessions of the United States.

§ 301.75-2 Regulated articles.

(a) Plants or plant parts, including fruit and seeds, of any of the following:

All species, clones, cultivars, strains, varieties, and hybrids of the genera *Citrus* and *Fortunella*, and all clones, cultivars, strains, varieties, and hybrids of the species *Poncirus trifoliata* (this includes large numbers of such articles; the most common are lemon, pummelo, grapefruit, key lime, persian lime, tangerine, satsuma, tangor, citron, sweet orange, sour orange, mandarin, tangelo, ethrog, kumquat, limequat, calamondin, and trifoliate orange).

(b) Any other product, article, or means of conveyance, of any character whatsoever, not covered by paragraph (a) of this section, when it is determined by an inspector that it presents a risk of spread of citrus canker and the person in possession thereof has actual notice that the product, article, or means of comveyance is subject to the provisions of this subpart.

§ 301.75-3 Quarantined areas.

(a) The entire State of Florida.

(b) The Deputy Administrator or an inspector may temporarily designate any nonquarantined area as a quarantined area upon a determination that an infestation exists. Written notice of such designation shall be given to the owners or persons in possession of such nonquarantined area, and, thereafter, the interstate movement of any regulated article from such area shall be subject to the applicable provisions of this subpart. As soon as practicable, such area shall be added to the list in paragraph (a) of this section or such designation shall be terminated by the Deputy Administrator or an inspector, and notice thereof shall be given to the owner or person in possession of the area.

§ 301.75-4 Commercial citrus producing areas.

(a) The following are designated as commercial citrus producing areas:

American Samoa
Arizona
California
Florida
Guam
Hawaii

That portion of Louisiana south of a line described by the following Interstate Highways: Beginning on Interstate 10 at the western boundary of the State, extending to the junction of Interstate 10 and Interstate 12 in Baton Rouge Parish, extending on Interstate 12 to the junction of Interstate 10 and Interstate 12 in St. Tammary Parish, and extending on Interstate 10 to the Mississippi State line.

Northern Mariana Islands
Puerto Rico
Texas
Virgin Islands of the United States

(b) The list in paragraph (a) of this section is intended to include jurisdictions which have commercial citrus producing areas. Less than an entire State may be designated as a commercial citrus producing area only if the Deputy Administrator determines that the area not included as a commercial citrus producing area does not contain commercial citrus plantings; that the State has adopted and is enforcing a prohibition on the intrastate movement from areas not designated as commercial citrus producing areas to commercial citrus producing areas of fruit which are designated as regulated articles and which were moved interstate from a quarantined State pursuant to a limited permit; and that the designation of less than the entire State as a commercial citrus producing area will otherwise be adequate to prevent the interstate spread of citrus canker.

§ 301.75-5 Movement of regulated articles for experimental or scientific purposes.

A regulated article may be moved interstate from a quarantined area if:

(a) Moved by the United States Department of Agriculture for experimental or scientific purposes;

(b) Moved pursuant to a Departmental permit issued for such article by the Deputy Administrator;

(c) Moved in accordance with conditions specified on the Departmental permit and determined by the Deputy Administrator to be adequate to prevent the spread of citrus canker, i.e., conditions of treatment, processing, growing, shipment, disposal; and

(d) Moved with a Departmental tag or label securely attached to the outside of the container containing the article or securely attached to the article itself if not in a container, with such tag or label bearing a Departmental permit number corresponding to the number of the Departmental permit issued for such article.

§ 301.75-6 Conditions governing the interstate movement of regulated articles from quarantined areas.[1]

(a) Any regulated article may be moved interstate from a quarantined area if moved with a certificate issued and attached in accordance with §§ 301.75-7 and 301.75-10.

(b) Fruit designated as a regulated article may be moved interstate from a quarantined area other than to a commercial citrus producing area if moved with a limited permit issued and attached in accordance with §§ 301.75-7 and 301.75-10, and if not unloaded in any commercial citrus producing area without permission from an inspector.

(c) Any regulated article may be moved interstate through a quarantined area without a certificate or limited permit, if:

(1) The article originated outside of any quarantined area,

(2) The article is moved directly through the quarantined area, and

(3) The point of origin of the article is clearly indicated by shipping documents and its identity has been maintained.

(d) In addition to being eligible for movement pursuant to paragraph (c) of this section, fruit designated as a regulated article may be moved interstate through a quarantined area without a certificate or limited permit, if:

(1) The fruit originated outside of any quarantined area;

(2) The fruit is moved directly through the quarantined area except for stopping for packing;

(3) The packing, and any related activities are subject to monitoring by inspectors;

(4) The packing is conducted only under conditions found by an inspector as adequate to assure that the fruit is not commingled with any regulated article originating in a quarantined area and that the fruit remains identifiable during such activities;

(5) The fruit is treated in Florida in accordance with § 301.75-12(a) immediately prior to being put into shipping containers that are new and bear a statement indicating the origin of the fruit;

(6) The point of origin of the fruit is clearly indicated by shipping documents and its identity has been maintained; and

(7) The packing is conducted only by a person who has entered into and maintains a valid compliance agreement with Plant Protection and Quarantine whereby it is agreed that any packing and related activities will be conducted only in accordance with the conditions specified in this section.

§ 301.75-7 Issuance and cancellation of certificates and limited permits.

(a) A certificate shall be issued by an inspector for the movement of seed designated as a regulated article if such inspector:

(1) Determines that no infestation has been found in the grove or nursery from which the seed originate;

(2) Determines that the seed has been [illegible] in accordance with § 301.75-[illegible]b) of this subpart;

(3) Determines that the seed is to be moved in compliance with any additional emergency conditions necessary to prevent the spread of citrus canker pursuant to section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd);[2] and

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[1] Requirements under all other applicable Federal domestic plant quarantines and regulations must also be met.

[2] Section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd) provides, among other things, that the Secretary of Agriculture may, whenever he deems it necessary as an emergency measure in order to prevent the dissemination of any plant pest new to or not theretofore known to be widely prevalent or distributed within and throughout the United States, seize, quarantine, treat, apply other remedial measures to, destroy,

Continued

(4) Determines that the seed is eligible for movement under all other Federal domestic plant quarantines and regulations applicable to such seed.

(b) A limited permit shall be issued by an inspector for the movement of fruit designated as a regulated article if such inspector:

(1) Determines that the fruit originated in an area found to be free of citrus canker based on surveys conducted by inspectors appointed by the Deputy Administrator;

(2) Determines that the fruit is free of leaves, litter, and stems other than stems less than one inch in length attached to the fruit;

(3) Determines that the fruit has been treated in accordance with § 301.75-12(a) of this subpart;

(4) Determines that the fruit is to be moved in compliance with any additional emergency conditions necessary to prevent the spread of citrus canker pursuant to section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd);[2] and

(5) Determines that the fruit is eligible for movement under all other Federal domestic plant quarantines and regulations applicable to such fruit.

(c) Certificates and limited permits for use for movement of regulated articles may be issued by an inspector to any person engaged in the business of growing, handling, or moving regulated articles provided such person is operating under a compliance agreement. Any such person may execute and issue a certificate or limited permit for the interstate movement of a regulated article if such person has treated such regulated article in accordance with the provisions in § 301.75-12 and the inspector has made the determination that such article is otherwise eligible for a certificate or limited permit in accordance with the provisions of this section.

(d) Any certificate or limited permit which has been issued or authorized may be withdrawn by an inspector if such inspector determines that the holder thereof has not complied with any conditions under the regulations for the use of such document. The decision and reasons for the withdrawal shall be confirmed in writing as promptly as circumstances allow. Any person whose certificate or limited permit has been withdrawn may appeal the decision in writing to the Deputy Administrator within ten days after receiving the written notification of the withdrawal. The appeal shall state all of the facts and reasons upon which the person relies to show that the certificate or limited permit was wrongfully withdrawn. The Deputy Administrator shall grant or deny the appeal, in writing, stating the reasons for such decision, as promptly as circumstances allow. If there is a conflict to any material fact, a hearing shall be held to resolve such conflict. Rules of Practice concerning such a hearing will be adopted by the Deputy Administrator.

§ 301.75-8 Compliance agreement and cancellation thereof.

(a) Any person engaged in the business of growing, handling, or moving regulated articles may enter into a compliance agreement to facilitate the movement of regulated articles under this subpart.[3] The compliance agreement shall be a written agreement between a person engaged in business and Plant Protection and Quarantine, wherein the person agrees to comply with the provisions of this subpart and any conditions imposed pursuant thereto.

(b) Any compliance agreement may be cancelled orally or in writing by the inspector who is supervising its enforcement whenever the inspector finds that such person has failed to comply with the provisions of this subpart or any conditions imposed pursuant thereto. If the cancellation is oral,

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or otherwise dispose of, in such manner as he deems appropriate, any product or article of any character whatsoever, or means of conveyance, which is moving into or through the United States of interstate, and which he has reason to believe is infested or infected by or contains any such plant pest.

[3] Compliance agreements may be arranged by contacting a local office of Plant Protection and Quarantine (local offices are listed in telephone directories), or by contacting the Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, Federal Building, Hyattsville, MD 20782.

the decision and the reasons therefor shall be confirmed in writing, as promptly as circumstances allow. Any person whose compliance agreement has been cancelled may appeal the decision, in writing, within ten days after receiving written notification of the cancellation. The appeal shall state all of the facts and reasons upon which the person relies to show that the compliance agreement was wrongfully cancelled. The Deputy Administrator may grant or deny the appeal, in writing, stating the reasons for such decision, as promptly as circumstances allow. If there is a conflict as to any material fact, a hearing shall be held to resolve such conflict. Rules of Practice concerning such a hearing will be adopted by the Deputy Administrator.

§ 301.75-9 Assembly and inspection of regulated articles.

(a) Any person who desires to move interstate a regulated article accompanied by a certificate or limited permit, shall as far in advance as possible (should be no less than 48 hours before the desired movement), request an inspector [4] to take any necessary action under this subpart prior to movement of the regulated article.

(b) Such article shall be assembled at such point and in such manner as the inspector designates as necessary to comply with the requirements of this subpart.

§ 301.75-10 Attachment and disposition of a certificate or limited permit.

(a) A certificate or limited permit required for the interstate movement of a regulated article, during such movement, shall be securely attached to the outside of the container containing the regulated article, securely attached to the article itself if not in a container, or securely attached to the consignee's copy of the accompanying waybill or other shipping document: *Provided, however,* that the requirements of this section may be met by attaching the certificate or limited permit to the consignee's copy of the waybill or other shipping documents if the regulated article is sufficiently described on the certificate, limited permit, or shipping document to identify such article.

(b) The certificate or limited permit for the movement of a regulated article shall be furnished by the carrier to the consignee at the destination of the shipment.

§ 301.75-11 Costs and charges.

The services of the inspector shall be furnished without cost. The United States Department of Agriculture will not be responsible for any costs or charges incident to inspections or compliance with the provisions in this subpart, other than for the services of the inspector.

§ 301.75-12 Treatments.[5]

(a) *Fruit.* Thorough wetting with a solution containing 200 parts per million active chlorine for a period of at least 2 minutes; or thorough wetting with a solution containing Sodium O-Phenyl Phenate (SOPP) at a concentration of 1.86 to 2 percent of the total solution for 45 seconds if the solution has sufficient soap or detergent to cause a visible foaming action or for 1 minute if the solution does not contain such concentration of soap or detergent. NOTE: SOPP must be applied in accordance with all label directions.

(b) *Seed.* Extracted from fruit that has been treated in accordance with paragraph (a) of this section, then cleaned free of pulp, then immersed in water at 125 °F (51.6 °C.) or higher for 10 minutes, and then immersed in a solution containing 200 parts per million active chlorine for a period of at least 2 minutes.

§ 301.75-13 Determination of extraordinary emergency.

An extraordinary emergency was declared on October 17, 1984, because of an outbreak of citrus canker in Florida (49 FR 41268). The regulations in §§ 301.75-14 through 301.75-16 of this subpart establish provisions relating to the extraordinary emergency.

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[4] Inspectors are assigned to local offices of Plant Protection and Quarantine which are listed in telephone directories. Information concerning such local offices may also be obtained from the Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, Federal Building, Hyattsville, MD 20782.

[5] Treatments shall be monitored by inspectors in order to asure compliance with the treatment provisions.

§ 301.75-14 Inspection, seizure, quarantine, and other actions.

Any employee of the United States Department of Agriculture designated by the Deputy Administrator and identified by an official identification card, shall have authority to inspect, seize, quarantine, and take other actions authorized under 7 U.S.C. 150dd and 150ff, including entering with a warrant any premises in Florida to make necessary inspections and seizures. Any such employee shall be allowed to collect samples of plants or plant products found on such premises. Any such employee may enter upon any premises without a warrant if the person in possession of the premises voluntarily consents to such employee's entry.

§ 301.75-15 Compensation for destroyed plants.

Compensation by the United States Department of Agriculture shall be paid for plants destroyed in Florida because of citrus canker on or after October 17, 1984, pursuant to an order issued by an inspector. Compensation shall be as follows:

Class of plant	Compensation to be paid by USDA[1]
Field Grown Nursery Plants:	
Seedling	$0.0135
Liner	0.1385
Budded tree	0.8450
Greenhouse Grown Nursery Plants:	
Seedling	0.0315
Liner	0.2660
Budded tree	0.9825
Container Plants:	
One (1) gallon	1.315
Two (2) gallons	1.710
Three (3) or more gallons	2.100
Grove Plants:	
Reset or new planting	3.740

[1] The amounts of compensation to be paid by USDA for plants represents fifty percent (50%) of the replacement values of the plants as determined by the Deputy Administrator. The replacement values for plants were determined based on information provided by the Citrus Canker Indemnity Work Group (a group composed of representatives of USDA-ERS, USDA-APHIS, the University of Florida, and the Florida Department of Agriculture and Consumer Services) and representatives from the citrus industry.

§ 301.75-16 Claim for compensation.

A claim for compensation to be paid by the United States Department of Agriculture for economic losses resulting from the destruction of plants must be presented to an inspector before compensation will be made. The claim must be made on PPQ Form 751. The claimant must state whether the items for which compensation is requested are, or are not, subject to a mortgage, lien, or other security or beneficial interest held by any person other than the claimant. If the claimant is the owner and states that there is no mortgage, lien, or other such interest on the items, payment will be made to the owner. If the claimant states that there is a mortgage, lien, or other such interest, PPQ Form 751 shall be signed by the claimant and by each person holding a mortgage, lien, or other such interest on the items, consenting to the payment of any compensation allowed to the person specified thereon, and payment will be made to such person.

Subpart—Witchweed

QUARANTINE AND REGULATIONS

§ 301.80 Quarantine; restriction on interstate movement of specified regulated articles.

(a) *Notice of quarantine.* Pursuant to the provisions of sections 8 and 9 of the Plant Quarantine Act of August 20, 1912, as amended, and section 106 of the Federal Plant Pest Act (7 U.S.C. 161, 162, 150ee), the Secretary of Agriculture heretofore determined, after public hearing, that it was necessary to quarantine the States of North Carolina and South Carolina, in order to prevent the spread of witchweed (*Striga* spp.), a parasitic plant which causes a dangerous disease of corn, sorghum, and other crops of the grass family, not theretofore widely prevalent or distributed within and throughout the United States, and accordingly quarantined said States. Under the authority of said provisions, the Secretary hereby continues such quarantine in effect with respect to the interstate movement from the quarantined States of the articles described in paragraph (b) of this section, issues the regulations in this subpart governing such movement, and gives notice of said quarantine and regulations.

(b) *Quarantine restrictions on interstate movement of specified regulated articles.* No common carrier or other person shall move interstate from any quarantined State any of the following articles (defined in § 301.80-1(p) as regulated articles), except in accordance with the conditions prescribed in this subpart:

(1) Soil, compost, peat, humus, muck, and decomposed manure, separately or with other things; sand; and gravel.

(2) Plants with roots.

(3) Grass sod.

(4) Plant crowns and roots for propagation.

(5) True bulbs, corms, rhizomes, and tubers of ornamental plants.

(6) Root crops, except those from which all soil has been removed.

(7) Peanuts in shells and peanut shells, except boiled or roasted peanuts.

(8) Small grains and soybeans.

(9) Hay, straw, fodder, and plant litter of any kind.

(10) Seed cotton and gin trash.

(11) Stumpwood.

(12) Long green cucumbers, cantaloupes, peppers, squash, tomatoes, and watermelons, except those from which all soil has been removed.

(13) Pickling cucumbers, string beans, and field peas.

(14) Cabbage, except firm heads with loose outer leaves removed.

(15) Leaf tobacco, except flue-cured leaf tobacco.

(16) Ear corn, except shucked ear corn.

(17) Used crates, boxes, burlap bags, and cotton-picking sacks, and other used farm products containers.

(18) Used farm tools.

(19) Used mechanized cultivating equipment and used harvesting equipment.

(20) Used mechanized soil-moving equipment.

(21) Any other products, articles, or means of conveyance, of any character whatsoever, not covered by paragraphs (b) (1) through (20) of this section, when it is determined by an inspector that they present a hazard of spread of witchweed, and the person in possession thereof has been so notified.

[35 FR 10553, June 30, 1970, as amended at 36 FR 24917, Dec. 24, 1971; 41 FR 27372, July 2, 1976]

§ 301.80-1 Definitions.

Terms used in the singular form in this subpart shall be deemed to import the plural, and vice versa, as the case may demand. The following terms, when used in this subpart, shall be construed, respectively, to mean:

(a) *Certificate.* A document issued or authorized to be issued under this subpart by an inspector to allow the interstate movement of regulated articles to any destination.

(b) *Compliance agreement.* A written agreement between a person engaged in growing, handling, or moving regulated articles, and the Plant Protection and Quarantine Programs, wherein the former agrees to comply with the requirements of this subpart identified in the agreement by the inspector who executes the agreement on behalf of the Plant Protection and Quarantine Programs as applicable to the operations of such person.

(c) *Deputy Administrator.* The Deputy Administrator of the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or any other officer or employee of said Service to whom authority to act in his stead has been or may hereafter be delegated.

(d) *Farm tools.* An instrument worked or used by hand, e.g., hoes, rakes, shovels, axes, hammers, and saws.

(e) *Generally infested area.* Any part of a regulated area not designated as a suppressive area in accordance with § 301.80-2.

(f) *Infestation.* The presence of witchweed or the existence of circumstances that make it reasonable to believe that witchweed is present.

(g) *Inspector.* Any employee of the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or other person, authorized by the Deputy Administrator to enforce the provisions of the quarantine and regulations in this subpart.

(h) *Interstate.* From any State into or through any other State.

(i) *Limited permit.* A document issued or authorized to be issued by an inspector to allow the interstate movement of noncertifiable regulated articles to a specified destination for limited handling, utilization, or processing, or for treatment.

(j) *Mechanized cultivating equipment; and mechanized harvesting equipment.* Mechanized equipment used for soil tillage, including tillage attachments for farm tractors, e.g., tractors, disks, plows, harrows, planters, and subsoilers; mechanized equipment used for harvesting purposes, e.g., mechanical cotton harvesters, hay balers, corn pickers, and combines.

(k) *Mechanized soil-moving equipment.* Mechanized equipment used to move or transport soil, e.g., draglines, bulldozers, road scrapers, and dump-trucks.

(l) *Moved (movement, move).* Shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved or allowed to be moved by any means. "Movement" and "move" shall be construed accordingly.

(m) *Person.* Any individual, corporation, company, society, or association, or other organized group of any of the foregoing.

(n) *Plant Protection and Quarantine Programs.* The organizational unit within the Animal and Plant Health Inspection Service delegated responsibility for enforcing provisions of the Plant Quarantine Act and Federal Plant Pest Act, and quarantines and regulations promulgated thereunder.

(o) *Regulated area.* Any quarantined State, or any portion thereof, designated as a regulated area in § 301.80-2a or otherwise designated as a regulated area in accordance with § 301.80-2(b).

(p) *Regulated articles.* Any articles described in § 301.80(b).

(q) *Restricted destination permit.* A document issued or authorized to be issued by an inspector to allow the interstate movement of regulated articles not certifiable under all applicable Federal domestic plant quarantines to a specified destination for other than scientific purposes.

(r) *Scientific permit.* A document issued by the Deputy Administrator to allow the interstate movement to a specified destination of regulated articles for scientific purposes.

(s) *Soil.* That part of the upper layer of earth in which plants can grow.

(t) *State.* Any State, territory, or district of the United States, including Puerto Rico.

(u) *Suppressive area.* That portion of a regulated area where eradication of infestation is undertaken as an objective, as designated by the Deputy Administrator under § 301.80-2(a).

(v) *Treatment Manual.* The provisions currently contained in the "Manual of Administratively Authorized Procedures to be Used Under the Witchweed Quarantine" and the "Fumigation Procedures Manual" and any amendments thereto.[1]

(w) *Witchweed.* Parasitic plants of the genus *Striga* and reproductive parts thereof, including seeds.

[41 FR 27372, July 2, 1976]

§ 301.80-2 Authorization to designate, and terminate designation of, regulated areas and suppressive or generally infested areas; and to exempt articles from certification, permit, or other requirements.

(a) *Regulated areas and suppressive or generally infested areas.* The Deputy Administrator shall designate as regulated areas, in a supplemental regulation designated as § 301.80-2a, each quarantined State, or each portion thereof in which witchweed has been found or in which there is reason to believe that witchweed is present or which it is deemed necessary to regulate because of its proximity to infestation or its inseparability for quarantine enforcement purposes from infested localities. The Deputy Administrator, in the supplemental regulation, may designate any regulated area or portion thereof, as a suppressive area or a generally infested area in accordance with the definitions thereof in § 301.80–1. Less than an entire quarantined State will be designated as a regulated area only if the Deputy Administrator is of the opinion that:

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[1] Pamphlets containing such provisions are available upon request to the Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250, or from an inspector.

(1) The State has adopted and is enforcing a quarantine or regulation which imposes restrictions on the intrastate movement of the regulated articles which are substantially the same as those which are imposed with respect to the interstate movement of such articles under this subpart; and

(2) The designation of less than the entire State as a regulated area will otherwise be adequate to prevent the interstate spread of witchweed.

(b) *Temporary designation of regulated areas and suppressive or generally infested areas.* The Deputy Administrator or an authorized inspector may temporarily designate any other premises in a quarantined State as a regulated area and may designate the regulated area or portions thereof as a suppressive or generally infested area, in accordance with the criteria specified in paragraph (a) of this section for designating such area, by serving written notice thereof on the owner or person in possession of such premises, and thereafter the interstate movement of regulated articles from such premises by any person having notice of the designation shall be subject to the applicable provisions of this subpart. As soon as practicable, such premises shall be added to the list in § 301.80–2a if a basis then exists for their designation.

(c) *Termination of designation as a regulated area and a suppressive or generally infested area.* The Deputy Administrator shall terminate the designation provided for under paragraph (a) of this section of any area designated as a regulated area or a suppressive or a generally infested area when he determines that such designation is no longer required under the criteria specified in paragraph (a) of this section. The Deputy Administrator or an inspector shall terminate the designation provided for under paragraph (b) of this section of any premises designated as a regulated area or a suppressive or a generally infested area when he determines that such designation is no longer required under the criteria specified in paragraph (a) of this section, and notice thereof shall be given to the owner or person in possession of the premises.

(d) *Exemption of articles from certification, permit, or other requirements.* The Deputy Administrator may, in a supplemental regulation designated as § 301.80–2b, list regulated articles or movements of regulated articles which shall be exempt from the certification, permit, or other requirements of this subpart under such conditions as he may prescribe, if he finds that facts exist as to the pest risk involved in the movement of such regulated articles which make it safe to so relieve such requirements.

[41 FR 27372, July 2, 1976]

§ 301.80–2a Regulated areas; suppressive and generally infested areas.

The civil divisions and parts of civil divisions described below are designated as witchweed regulated areas within the meaning of the provisions of this subpart; and such regulated areas are hereby divided into generally infested areas or suppressive areas as indicated below:

NORTH CAROLINA

(1) *Generally infested areas.* None.

(2) *Suppressive areas.*

Beaufort County. The Jefferson, Russell M., farm located on the southwest side of State Secondary Road 1609 and 0.6 mile southeast of the junction of said road and State Highway 32.

The Osborne, H.R., farm located on both sides of State Secondary Road 1609 and 0.5 mile southeast of the junction of said road and State Highway 32.

Bladen County. The entire county.

Columbus County. The part of the county lying north and west of a line that begins at a point where State Secondary Road 1730 and State Secondary Road 1708 meet at the Columbus-Bladen County line; then south and southwest along State Secondary Road 1730 to its junction with State Secondary Road 1001; then south along said road to a point where it is intersected by State Secondary Road 1714; then west along said road to its junction with U.S. Highway 74; then west along said highway to U.S. Highway 701 Bypass; then south and west along said highway to its intersection with State Secondary Road 1314; then west along said road to its junction with State Secondary Road 1346; then southwest along said road to its junction with the North Carolina-South Carolina State border where the line ends.

The Brown, Annie, farm located on the west side of State Highway 11 and 0.6 mile south of the junction of said road with State Highway 87.

The Jacobs, Thomas, farm located 0.2 mile north of State Secondary Road 1847 and 1 mile northeast of the junction of said road 1847 with State Secondary Road 1740.

Craven County. The Bellamy, Willie, farm located on the north side of State Secondary Road 1444 and 0.9 mile southwest of its junction with State Secondary Road 1440.

The Chapman, Idel M., farm located on the west side of State Secondary Road 1459 and 0.1 mile north of junction of State Secondary Road 1463 with said road 1459 and 0.3 mile off west side of State Secondary Road 1459.

The Hawkins, Annie A., farm located on both sides of State Secondary Road 1263 and 1 mile east of the junction of said road 1263 with State Secondary Road 1262.

The Jolley, Albert, farm located on the south side of State Highway 55 and 0.3 mile west of its junction with State Secondary Road 1258.

The Jones, Vann, farm located on the west side of State Secondary Road 1459 and 0.1 mile north of junction of State Secondary Road 1463 with said road and 0.4 mile off of west side of State Secondary Road 1459.

The Morris, Gerald K., farm located on the north side of State Secondary Road 1444 and 1.4 miles northwest of the junction of State Secondary Road 1447 with said road.

The Nelson Estate, Joseph, located on both sides of State Secondary Road 1450 and located 0.1 mile northeast of intersection of State Secondary Road 1454.

The Nobles, Jr., Jack, farm located on both sides of State Secondary Road 1262 and located 0.7 mile south of the junction of State Secondary Road 1258 and State Secondary Road 1262.

The Register, Keith, farm located 0.3 mile west of the junction of State State Secondary Road 1251 with Highway 55 and on the north side of Highway 55.

The Tripp, Dudley, farm located on the north side of State Secondary Road 1444 and 1.1 miles southwest of its junction with State Secondary Road 1440.

The West, Gladys W., farm located on both sides of State Secondary Road 1263 and 1.4 miles east of its southern junction with State Secondary Road 1262.

The White, Raymond E., farm located on both sides of State Secondary Road 1263 and 0.2 mile east of its northern junction with State Secondary Road 1262.

Cumberland County. That area bounded by a line beginning at a point where U.S. Highway 401 intersects the Cumberland-Hoke County line, then east along said highway to its intersection with the Fayetteville city limits, then south, east, and northeast along said city limits to its junction with U.S. Highway 301 north, then northeast along said highway to its junction with U.S. Interstate 95, then northeast along said interstate to its junction with U.S. Highway 13, then east and northeast along said highway to its intersection with the Cumberland-Sampson County line, then southerly along said county line to its junction with the Bladen-Cumberland County line, then westerly along said county line to its junction with the Cumberland-Robeson County line, then northwesterly along said county line to its junction with the Cumberland-Hoke County line, then northwesterly along said county line to the point of beginning.

The Autry, J.G., farm located on the east side of U.S. Highway 301 and 0.1 mile north of its junction with State Secondary Road 1722.

The Barefoot, William, farm located on the east side of State Secondary Road 1005 and 1.1 miles northeast of its junction with State Secondary Road 1813.

The Bullock, Burline, farm located on the northeast side of State Secondary Road 1722 and 0.4 mile west of its junction with U.S. Highway 301.

The Bunce, Mrs. John, farm located on the north side of State Secondary Road 1814 and 0.3 mile west of its junction with State Secondary Road 1813.

The Contrell, C.T., farm located on the west side of State Secondary Road 1400 at its junction with State Secondary Road 1401.

The Elliott, Lattie, farm located on the north side of State Secondary Road 1722 and 0.4 mile east of its junction with State Secondary Road 1714.

The Elliott, W.H., farm located on the south side of State Secondary Road 1609 and 0.5 mile east of its junction with State Secondary Road 1710.

The Gerald, Rufus, farm located on the east side of State Secondary Road 1818 and 0.5 mile north of its intersection with U.S. Highway 13.

The Grimble, A.I., farm located on the east side of State Secondary Road 1608 and 0.5 mile north of its junction with U.S. Highway 401.

The Holiday, Waddell, farm located on the south side of State Secondary Road 3122 and its junction with State Secondary Road 1402.

The Jackson, J.T., farm located on the west side of State Secondary Road 1403 and 0.7 mile north of its junction with U.S. Highway 401.

The Lambert, Jack, farm located on the west side of State Secondary Road 1716 and 0.2 mile north of its junction with State Secondary Road 1717.

The Lee, Jack, farm located on the west side of State Secondary Road 1716 and 0.1 mile north of its junction with State Secondary Road 1717.

The Lovick, Eugene, farm located on the north side of State Secondary Road 1732 and 0.9 mile west of its junction with U.S. Highway 301.

The Lovick, Grady, farm located on the west side of State Secondary Road 1716 and 0.2 mile north of its junction with State Secondary Road 1717.

The Matthews, Ada H., farm located on the east side of State Secondary Road 1818 and 0.7 mile north of its intersection with U.S. Highway 13.

The Matthews, E.M., farm located on the east side of State Secondary Road 1005 and at its north intersection with State Secondary Road 1813.

The Matthews, Isiah, farm located on a private road off the east side of U.S. Highway 301 and 0.1 mile north of its junction with State Secondary Road 1722.

The McKeithan, Sarah E., farm located on the west side of U.S. Highway 301 and 0.3 mile north of its junction with State Secondary Road 1815.

The McLaurin, Burnice, farm located on the north side of State Secondary Road 1720 and 0.7 mile east of its intersection with State Secondary Road 1719.

The McLaurin, Elwood, farm located on the west side of U.S. Highway 301 and 0.2 mile north of its junction with State Secondary Road 1828.

The McLaurin, George, farm located on the north side of State Secondary Road 1722 and 0.4 mile west of its junction with U.S. Highway 301.

The McLaurin, Greg, farm located on the south side of State Secondary Road 1722 and 0.3 mile west of its junction with U.S. Highway 301.

The McLaurin, H.A., farm located on the south side of State Secondary Road 1722 and 0.41 mile west of its junction with U.S. Highway 301.

The McLaurin, McLaurin, farm located on the north side of State Secondary Road 1722 and 0.5 mile west of its junction with U.S. Highway 301.

The McLaurin, Octavious, farm located on the north side of State Secondary Road 1722 and 0.51 mile west of its junction with U.S. Highway 301.

The McLaurin, W.A., farm located on the south side of State Secondary Road 1722 and 0.43 mile west of its junction with U.S. Highway 301.

The McMillan, Vander, farm located on the west side of U.S. Highway 301 and 0.5 mile north of its junction with State Secondary Road 1722.

The McNeill, Mattie J., farm located on the west side of State Secondary Road 1593 and 0.8 mile north of its junction with U.S. Highway 401.

The Melvin, Edith, farm located on the east side of State Secondary Road 1600 and 1.7 miles north of its intersection with State Secondary Road 1615.

The Odums, Marshal, farm located on the north side of State Secondary Road 1722 and 0.2 mile west of its junction with U.S. Highway 301.

The Powell, William Clinton, farm located on the south side of State Secondary Road 1722 and 0.3 mile east of its junction with State Secondary Road 1714.

The Pruitt, K.D., farm located on the west side of U.S. Highway 13 and 0.6 mile north of its intersection with State Secondary Road 1818.

The Roberts, Christine Dawson, farm located on the south side of State Secondary Road 1714 and 0.5 mile west of its junction with State Secondary Road 1716.

The Shirman, Harry, farm located on the west side of State Secondary Road 1400 and 0.1 mile south of its junction with State Secondary Road 1401.

The Smith, Agnes, farm located on the south side of State Secondary Road 1720 and 0.7 mile east of its intersection with State Secondary Road 1719.

The Smith, J.B., farm located on the south side of State Secondary Road 1722 and 0.6 mile west of its junction with State Secondary Road 1721.

The Smith, Larry Don, farm located on a private road off the west side of U.S. Highway 301 and 0.2 mile south of its junction with State Secondary Road 1722.

The Thompson, Mrs. Paul, farm located on the west side of Highway 301 and 0.4 mile south of its junction with State Secondary Road 1863.

The Turner, W.E., farm located on a private road off the east side of U.S. Highway 301 and 0.2 mile north of its junction with State Secondary Road 1722.

The Underwood, George, farm located on the south side of State Secondary Road 1730 and 0.5 mile east of its junction with State Secondary Road 1723.

The Underwood, Olive T., farm located on the east side of State Secondary Road 1723 and 0.8 mile south of its junction with State Secondary Road 1722.

The Valentine, Ike, farm located on the west side of State Secondary Road 1402 and 0.9 mile south of its junction with State Secondary Road 1400.

The Williams, C.D., farm located on the north side of State Secondary Road 1719 and 1.21 miles north of its intersection with State Secondary Road 1720.

The Williams, Maggie, farm located on the north side of State Secondary Road 1719 and 1.2 miles north of its intersection with State Secondary Road 1720.

The Williams, M.C., farm located on the south side of State Secondary Road 1728 and its east intersection with State Secondary Road 1725.

The Williams, Robert, farm located on the east side of State Secondary Road 1813 and at its intersection with Interstate 95.

Duplin County. The Beard, Mary Lou, farm located on both sides of State Secondary Road 1961 and 0.6 mile west of its intersection of said road and the Northeast Cape Fear River.

The Boykins, Charles B., farm located 1 mile northwest of State Secondary Road 1304 and 0.3 mile southeast of the junction of said road with State Secondary Road 1354.

The Bradshaw, Milton J., farm located at the northwest end of State Secondary Road 1980.

The Branch, Hall, farm located 0.3 mile northwest of State Highway 11 and 1 mile northeast of junction of highway and State Secondary Road 1378.

The Carlton, Rivers, farm located 1 mile south of State Secondary Road 1307 and 1.5 miles east of its junction of said road with State Secondary Road 1352.

The Chambers, D.F., farm located on the south side of State Secondary Road 1700 and 0.6 mile west of its intersection with the Northeast Cape Fear River.

The Dodson, Elizabeth S., farm located on the north side of State Highway 24 and 0.2 mile east of its intersection with State Secondary Road 1737.

The Dobson, Twillie, farm located on the south side of State Secondary Road 1912 and 0.7 mile west of its junction of said road and State Highway 11.

The Faison, Moses, farm located 1.1 miles south of State Secondary Road 1307 and 1.5 miles east of the junction of said road with State Secondary Road 1352.

The Frederick, William, farm located on the north side of State Secondary Road 1114 and 0.1 mile west of the intersection of said road with State Secondary Road 1107.

The Grady, E.C., farm located on both sides of State Secondary Road 1700 and 0.7 mile west of the intersection of said road and the Northeast Cape Fear River.

The Holland, William, farm located on the west side of U.S. Highway 117 at the junction of State Secondary Road 1909.

The Hoover, Annie, farm located on the west side of U.S. Highway 117 and 0.2 mile north of the intersection of said highway with State Secondary Road 1909.

The Jones, H.A., No. 2, farm located on both sides of State Secondary Road 1700 and 0.6 mile west of its intersection with the Northeast Cape Fear River.

The King, W.R., farm located on the east side of State Secondary Road 1302 and 0.1 mile south of the junction of said road and State Secondary Road 1308.

The Kornegay, Cecil, farm located on the northwest side of State Secondary Road 1306 and 1 mile southwest of its intersection with State Secondary Road 1500.

The Lee, Daphne, farm located on the south side of State Highway 24 and 0.3 mile east of its intersection with State Secondary Road 1737.

The McGowan, Henry C., Heirs, farm located 0.6 mile south of State Secondary Road 1700 and 0.7 mile east of its junction with State Highway 11.

The Miller, O'Berry, farm located on the north side of State Secondary Road 1700, and 0.1 mile east of its junction with State Highway 11.

The Miller, Willie Mae, farm located on the south side of State Secondary Road 1961 and 1.1 miles west of the intersection of said road and State Secondary Road 1962.

The Monk, E.D., farm located 0.2 mile east of State Secondary Road 1923 and 0.5 mile north of the junction of said road with State Secondary Road 1922.

The Monk, Johnny, farm located on the north side of State Secondary Road 1104 and 0.1 mile west of the junction of said road with State Secondary Road 1003.

The Moore, Macy J., farm located on the south side of State Secondary Road 1301 at the junction of said road with State Secondary Road 1353.

The Outlaw, Oliver, farm located on both sides of State Secondary Road 1300 and the east side of State Secondary Road 1301 where these roads intersect.

The Pate, Robert Lee, farm located on both sides of State Secondary Road 1357 and 0.9 mile southwest of the junction of said road and State Secondary Road 1306.

The Phillips, Hubert, farm located on the east side of State Secondary Road 1375 and 0.7 mile northwest of its junction with State Highway 24.

The Pigford, P.H., farm located on the south side of State Secondary Road 1980 and 0.2 mile east of the dead end of said road.

The Quinn, Joseph, farm located on both sides of State Secondary Road 1126 and 1.8 miles west of the intersection of said road with State Secondary Road 1100.

The Raiford, P.B., farm located on the west side of State Secondary Road 1900 and 0.1 mile south of the junction of said road with State Secondary Road 1903.

The Stokes, Fred, farm located on the south side of State Secondary Road 1980 and 2.4 miles west of the junction of said road and State Secondary Road 1979.

The Stokes, J.D., Jr., farm located on both sides of State Secondary Road 1980 and 0.3 mile east of the dead end of said road.

The Stokes, William C., farm located at the southwest end of State Secondary Road 1980.

The Thomas, Douglas M., farm located on the southwest side of State Secondary Road 1700 and 0.4 mile northwest of the intersection of said road with State Secondary Road 1728.

The Thomas, J.R., farm located on the south side of State Secondary Road 1700 and 1.8 miles east of intersection of said road and State Secondary Road 1701.

The Tyner, J.R., farm located on the south side of State Highway 24 and the east side of State Secondary Road 1737 at the intersection of said roads.

The Williams, Jasper, farm located on the east side of State Secondary Road 1323 and 0.2 mile south of its junction with State Highway 403.

The Williams, McArthur, farm located on the south side of State Secondary Road 1961 and 1 mile west of the intersection of said road and State Secondary Road 1962.

The Wilson, Mammie, farm located on the east side of State Highway 111 and 1 mile south of the intersection of said highway and State Secondary Road 1700.

Greene County. That area bounded by a line beginning at a point where State Highway 903 intersects State Highway 123 and extending southerly along State Highway 123 to its intersection with Contentnea Creek, then northwest along said creek to its junction with Panther Swamp, then northerly along said swamp to its intersection with U.S. Highway 258–13, then northeasterly to its intersection with State Highway 903; then easterly along said highway to the point of beginning.

The Carmon, James E., farm located on the east side of State Secondary Road 1004 and 0.4 mile south of its junction with State Highway 903.

Harnett County. That area bounded by a line beginning at a point on the Harnett-Lee County line due west of the head of Barbecue Swamp and extending east to the head of said swamp, then south and east along Barbecue Swamp to its intersection on State Secondary Road 1201, then south and southeast along said road to its junction with State Highway 27, then southeast along said highway to its junction with State Highway 24, then southeast along said highway to its junction with State Secondary Road 1111, then southwest along said road to its intersection with Harnett-Moore County line, then northwest along the Harnett-Moore County line to its junction with the Moore-Harnett-Lee County line, then northeast along the Harnett-Lee County line to the point of beginning.

That area bounded by a line beginning at a point where the Harnett-Cumberland County line and McLeod Creek intersect and extending northwest along said creek to its intersection with State Secondary Road 1117, then northeast, northwest and north along said road to its intersection with Anderson Creek, then southeast along said creek to its intersection with the State Highway 210, then northeast along said highway to its junction with State Secondary Road 2030, then southeast along said road to its junction with State Secondary Road 2031, then southwest along said road to its intersection with the Harnett-Cumberland County line, then southwest and west along said county line to the point of beginning.

The Forthberry, Bennett, farm located on the south side of State Secondary Road 1141 and 0.4 mile east of the junction of said road with State Secondary Road 1139.

The Frizzelle, Roscoe, farm located on the south side of State Secondary Road 1141 and 0.3 mile east of the junction of said road with State Secondary Road 1139.

The Gilchrist, Leonard W., farm located on the southeast side of State Secondary Road 1111, 0.4 mile north of the junction of said road with State Secondary Road 1110.

The McNeil, Raymond F., farm located on the east side of State Secondary Road 1201 and north of the junction of said road with State Secondary Road 1202.

The Pulley, Clarence E., farm located on the north side of State Secondary Road 1141 and 0.4 mile east of the junction of said road with State Secondary Road 1139.

The Serina, David, farm located on the south side of State Secondary Road 1141 and 0.4 mile east of the junction of said road with State Secondary Road 1139.

The Spaulding, James, farm located on north side of State Secondary Road 1141 and 1.3 miles east of the junction of said road with State Secondary Road 1139.

The Thomas, Floyd E., farm located on the northeast side of State Secondary Road 1146 and 0.2 mile north of the junction of said road with State Secondary Road 1117.

The Womack, E. H., farm located on the east side of State Highway 27, and 1 mile north of the junction of said highway with State Highway 24.

Hoke County. That area bounded by a line beginning at a point where U.S. Highway 401 intersects with Hoke-Scotland County line, then northeasterly along said highway to its junction with the Raeford city limits, then southeast and north along said city limits to its junction with Business Highway 401, then east and northeast along said highway to its junction with U.S. Highway 401, then easterly along said highway to its intersection with the Cumberland-Hoke County line, then southeast along said county line to its junction with the Hoke-Robeson County line, then southwest and west along said county line to its junction with the Hoke-Scotland County line, then northerly along said county line to the point of beginning.

The Bronson, Amos, farm located on the north side of State Secondary Road 1302 and 0.8 mile west of the junction of said road with State Secondary Road 1303.

The Burke, Will, Estate farm located to the southeast of State Secondary Road 1233 and 0.2 mile south of the junction of said road with State Secondary Road 1218.

The Cameron, Hermon, farm located on the east side of State Secondary Road 1212 and 0.1 mile south of the junction of said road with State Secondary Road 1211.

The Flowers, Effie Lee, farm located on the north side of State Secondary Road 1203 and 0.1 mile northeast of the junction of said road with State Secondary Road 1207.

The Flynn, Charlie, farm located on the east side of State Secondary Road 1218 and 1 mile south of the junction of said road with State Secondary Road 1219.

The Fowler, Arne, farm located on the north side of State Secondary Road 1203 and 0.2 mile northeast of the junction of said road with State Secondary Road 1207.

The Graham, William, farm located on the north side of State Secondary Road 1316 and 0.5 mile east of the junction of said road with State Highway 211.

The Johnson, George, farm located on the south side of State Secondary Road 1219 and 0.3 mile east of the junction of said road with State Secondary Road 1218.

The Leslie, Dora N., farm located north of the junction of State Secondary Roads 1200 and 1203.

The McGregor, Gilbert, farm located on the south side of State Secondary Road 1219 and 0.4 mile east of the junction of said road with State Secondary Road 1218.

The McPhatter, Tom, farm located on the east side of State Secondary Road 1202 and 0.1 mile south of the junction of said road with State Secondary Road 1203.

The McRae, Annie, farm located on the west side of State Secondary Road 1302 and 0.1 mile north of the junction of said road with U.S. Highway 401 bypass.

The McRae, Ervin, farm located on the north side of State Secondary Road 1302 and 1 mile west of the junction of said road with State Secondary Road 1303.

The Moon, Leonard, farm located on the west side of State Highway 211 and 0.3 mile north of the junction of said highway with State Secondary Road 1228.

The Ray, Howard, farm located on the north side of State Secondary Road 1203 and 0.1 mile west of the junction of said road with State Secondary Road 1240.

The Ray, Neil, farm located on the west side of State Secondary Road 1320 and 0.1 mile west of the junction of said road with State Secondary Road 1304.

The Williams, Alex, farm located in the southeast junction of State Secondary Roads 1202 and 1203.

The Winecroff, Lee, farm located on both sides of State Secondary Road 1215 and 0.4 mile east of the junction of said road with State Secondary Road 1216.

Johnston County. The McArthur, Margaret, farm located 1.4 miles north of State Secondary Road 1199 and 0.9 mile west of the junction of said road and State Secondary Road 1008.

Lenoir County. The Barwick, Charles H. and Evelyn Sutton, farm located on the north side of State Secondary Road 1324 and 0.1 mile east of its junction with State Road 1308.

The Braxton, Clyde, Estate located on both sides of State Secondary Road 1802 and 0.9 mile northeast of the junction of State Secondary Road 1802 and State Highway 11.

The Carey, Jack, farm located on both sides of State Secondary Road 1906 and 1 mile east of its junction with U.S. Highway 285.

The Dawson, Wayne, farm located on State Secondary Road 1318 and 0.3 mile north of its junction with State Secondary Road 1316.

The Faulkner, Isabelle, farm located on both sides of State Secondary Road 1809 and 0.5 mile east of its junction with State Secondary Road 1720.

The Herring, Ben D., No. 2, farm located on the west side of State Secondary Road 1310 and 0.3 mile south of its junction with State Secondary Road 1311.

The Herring, Frances F., farm located on the west side of State Secondary Road 1310 and 0.6 mile south if its junction with State Secondary Road 1311.

The Herring, Jack A., farm located on both sides of State Secondary Road 1310 and 0.4 miles south of its junction with State Secondary Road 1311.

The Herring, Robert, farm located in the northwest junction of State Secondary Roads 1318 and 1316.

The Jarman, F. R., farm located on the southeast side of State Secondary Road 1311 and 0.7 mile southwest of its junction with State Secondary Road 1318.

The Pelletier, Roger, farm located on the northeast side of State Secondary Road 1316 and 0.3 mile northwest of its junction with State Secondary Road 1318.

The Rouse, Forrest, farm located on the northeast side of State Secondary Road 1143 and 2.9 miles northwest of its intersection with State Secondary Road 1154.

The Rouse, James, farm located on the southeast side of State Secondary Road 1307 and 0.4 mile southwest of the junction of said road and State Secondary Road 1324.

The Sutton, Curtis, Estate located on the west side of State Secondary Road 1324 and 0.5 mile north of its junction with State Secondary Road 1309.

The Sutton, Harvey, farm located on the west side of State Secondary Road 1331 and 0.2 mile south of its junction with State Secondary Road 1330.

The Sutton, John W., farm located in the southwest junction of State Secondary Road 1333 and State Secondary Road 1330.

The Sutton, Nancy, farm located on the south side of State Secondary Road 1330 and 0.5 mile east of its junction with State Secondary Road 1331.

The Sutton, Nathan, farm located on the southeast side of State Secondary Road 1311 and 0.6 mile southwest of its junction with State Secondary Road 1318.

The Sutton, W. Edward, farm located on the east side of State Secondary Road 1333 and 0.4 mile south of State Secondary Road 1330.

The Taylor, Heber, farm located on the north side of State Secondary Road 1161 and 0.3 mile east of its junction with State Highway 55.

The Walters, H. F., farm located on both sides of State Secondary Road 1335 and 0.4 mile north of its junction with State Secondary Road 1324.

Onslow County. The Henderson, Charlie, farm located on the east side of State Secondary Road 1528, and 0.2 mile north of the junction of said road with State Secondary Road 1518.

The Lanier, Marion, farm located on the southeast side of State Secondary Road 1224, and 0.7 mile northeast from the junction of said road and State Secondary Road 1222.

Pender County. That area bounded by a line beginning at a point where State Secondary Road 1104 intersects the Pender-Bladen County line, and extending northeast along said county line to its junction with Black River, then southeast along said river to its intersection with State Highway 210, then southwest along said highway to its junction with State Secondary Road 1103, then southeast along said road to its junction with State Secondary Road 1104, then southwest and northwest along said road to the point of beginning.

That area bounded by a line beginning at a point where State Secondary Road 1517, junctions with U.S. Highway 117, and extending northwest along said highway to its intersection with Walker Swamp, then northeast along said swamp to its junction with Pike Creek, then southeast along said creek to its junction with the Northeast Cape Fear River, then south along said river to its intersection with State Highway 210, then southwest along said highway to its junction with State Secondary Road 1518, then southeast along said road to its junction with State Secondary Road 1517, then westerly along said road to the point of beginning.

The Anderson, Julian W., farm located on both sides of State Secondary Road 1108 and 0.9 mile northwest of the junction of said road and State Secondary Road 1107.

The Batson, Arthur, farm located on the east side of State Secondary Road 1411 and 1.5 miles east of its intersection with U.S. Highway 117.

The Corbett, W.M., farm located on both sides of State Secondary Road 1201 at its junction with State Secondary Road 11200.

The Dees, Betty B., farm located 0.6 mile east of State Secondary Road 1411 and 1.5 miles east of its intersection with U.S. Highway 117.

The Fensel, F. P., farm located on the north side of State Secondary Road 1103 and 0.6 mile west of its junction with State Secondary Road 1133.

The Hardie, George, farm located on the north side of a field road 0.4 mile east of State Secondary Road 1104 and 0.2 mile northeast of its intersection with Lyon Canal.

The Kea, Leo, farm located 0.5 mile east of State Secondary Road 1105 and 1 mile southwest of the junction of said road and State Secondary Road 1104.

The Hutcheson, Katie, farm located on field road 1.7 miles east of U.S. Highway 117 and 0.3 mile south of its intersection with State Secondary Road 1411.

The Lanier, Admah, farm located on the southeast side of State Secondary Road 1411 and 1.4 miles east of its intersection with U.S. Highway 117.

The Marshall, Crawford, farm located on the north side of State Secondary Road 1103 and 0.6 mile west of its junction with State Secondary Road 1133.

The Marshall, Milvin, farm located on the north side of State Secondary Road 1103 and 0.6 mile east of the southern junction of said road and State Secondary Road 1104.

The McCallister, Mary K., farm located 0.2 mile east of State Secondary Road 1105 and 1 mile southwest of the junction of said road and State Secondary Road 1104.

The Terrell, Nancy, farm located on a field road 2.8 miles east of U.S. Highway 117 and 0.3 mile south of its intersection with State Secondary Road 1411.

The Thompson, Dick, farm located on the southwest side of State Secondary Road 1108 and 0.5 mile northwest of its junction with State Secondary Road 1107.

The Ward, Mary Alice, farm located on a field road 0.9 mile east of State Secondary Road 1411 and 1.5 miles east of its intersection with U.S. Highway 117.

Pitt County. The Cannon, James, farm located on the west side of State Secondary Road 1918 and 0.1 mile north of its junction with State Secondary Road 1917.

The Couch, Ruth, farm located on the east side of State Secondary Road 1918 and 0.3 mile north of its junction with State Secondary Road 1917.

The Gardner, Charlie D., farm located on both sides of State Secondary Road 1910 at junction of said road and State Highway 118.

The Garris, Bruce E., farm located in the south junction of State Highway 118 and State Secondary Road 1916.

The Hodges, M. B., farm located on the east side of State Secondary Road 1907 and 1.1 miles north of State Highway 118.

The Stancill, Wiley, farm located on the west side of State Secondary Road 1918 and 0.1 mile south of its junction with State Secondary Road 1919.

Richmond County. The Autry, John, farm located on the north side of State Secondary Road 1803 and 0.4 mile east of Osborne.

The Covington, Tally, farm located on private road 0.1 mile north off of State Secondary Road 1433 and 0.6 mile east of U.S. Highway 220.

The Dumas, Reba, farm located on the northeast side of State Secondary Road 1083 and 0.3 mile northwest of said intersection of State Highway 38.

The Fisher, George, farm located on the north side of State Secondary Road 1827 and 0.1 mile southeast of its junction with State Secondary Road 1825.

The Jackson, James, farm located on private road 0.2 mile north off of State Secondary Road 1433 and 0.6 mile east of U.S. Highway 220.

The Poe, William, farm located 0.6 mile on unnumbered road off State Road 1475 and 0.2 mile southeast of its junction with State Road 1486.

The Steele, Thomas, farm located on the northwest side of State Road 1442 and 0.4 mile southwest of its junction with State Road 1489.

The Terry, Elijah, farm located on the northwest side of State Secondary Road 1442 and 0.2 mile northwest of its junction with State Secondary Road 1477.

The Thomas, Walter, farm located on both sides of U.S. Highway 220 and 0.4 mile northeast of its junction with State Secondary Road 1433.

The Watkins, John Q., farm located on the southeast side of State Secondary Road 1476 and 0.3 mile northeast of its junction with State Secondary Road 1442.

The Watkins, Mosby, farm located on both sides of State Secondary Road 1476 and 0.2 mile northeast of its junction with State Secondary Road 1442.

Robeson County. The entire county.

Sampson County. The entire county.

Scotland County. That area bounded by a line beginning at a point where U.S. Highway 401 intersects the Hoke-Scotland County line; then southwest along said highway to its junction with the Laurinburg city limits; then southwest along the Laurinburg city limits to its junction with U.S. Highway 501, then northerly on U.S. Highway 501 to its intersection with Hoke-Scotland County line; then southeasterly along said line to the point of beginning.

The Carmichael, John, farm located on both sides of State Secondary Road 1612 and 0.2 mile southwest of its junction with State Secondary Road 1611.

The Creed, George O., farm located on both sides of State Secondary Road 1426 and 0.6 mile north of its junction with State Secondary Road 1427.

The Gibson, J. C., farm located on the south side of State Secondary Road 1341 and 0.5 mile southwest of its junction with State Secondary Road 1328.

The Jones, R. D., farm located on the northeast side of State Secondary Road 1601 and 0.2 mile northwest of its junction with State Secondary Road 1609.

The Morgan, J. D., farm located on the east side of State Secondary Road 1346 and 0.5 mile north of the junction of said road with State Secondary Road 1343.

The Stewart, Claude, farm located on the northwest side of State Secondary Road 1612 and 0.7 mile northeast of the junction of said road with State Secondary Road 1619.

Wayne County. That area bounded by a line beginning at a point where State Highway 111 and State Secondary Road 1913 junction; then southwesterly along State Secondary Road 1913 to its junction with State Secondary Road 1744; then easterly along said road to its junction with State Secondary Road 1948; then southerly along said road to its intersection with State Secondary Road 1745; then westerly along said road to its junction with State Secondary Road 1915; then northerly along said road to its intersection with State Secondary Road 1744; then westerly along said road to its junction with State Secondary Road 1933; then northwesterly along said road to its junction with State Secondary Road 1120; then easterly along said road to its junction with State Secondary Road 1915; then easterly from said junction along an imaginary line to the junction of Sleepy Creek and the Neuse River; then easterly along said river to its intersection with State Highway 111; then south along said highway to the point of beginning.

The Barwick, Jack, farm located on the west side of State Secondary Road 1932 and 0.6 mile south of the junction of said road and State Secondary Road 1934.

The Bowden, B. J., farm located on the west side of State Secondary Road 1931 and 0.2 mile south of intersection of said road and State Secondary Road 1120.

The Brooks, Leonard, farm located 0.2 mile west of State Secondary Road 1934 and 1 mile south of the junction of said road and State Secondary Road 1932.

The Carraway, Ethel, farm located on the east side of State Secondary Road 1915 and 0.1 mile north of the junction of said road and State Secondary Road 1120.

The Dawson, L. A., farm located on the west side of State Highway 111 and 0.5 mile south of the junction of said highway and State Secondary Road 1730.

The Exum, Molly, farm located on the east side of State Secondary Road 1739 and 0.1 mile south of the junction of said road and State Highway 55.

The Georgia-Pacific Corp., farm located on the north side of State Secondary Road 2010 at the junction of said road and State Secondary Road 1938.

The Grady, Zeb, farm located on the east side of State Secondary Road 1932 and 1 mile north of the junction of said road and State Secondary Road 1744.

The Grant, Charlie, farm located on the south side of State Secondary Road 1745 and 0.4 mile west of its junction with State Secondary Road 1952.

The Haggin, Joe, No. 2, farm located on the east side of State Secondary Road 1931 and 1.1 miles northeast of its intersection with State Secondary Road 1120.

The Herring, Harmon, farm located on the south side of State Secondary Road 1734 and 0.4 mile east of its junction with State Secondary Road 1731.

The Herring, Thel, farm located on the west side of State Secondary Road 1711 and 0.4 mile north of its junction with U.S. Highway 70A.

The Hines, Lucy, farm located on the west side of State Secondary Road 1933 and 1.5 miles south of the junction of said road and State Secondary Road 1120.

The Hines, Viola, farm located on the southwest side of State Secondary Road 1932 and 0.8 mile northwest of the intersection of said road and State Secondary Road 1744.

The Humphrey, Josephine, farm located on the east side of State Secondary Road 1932 and 0.2 mile north of its intersection with State Secondary Road 1120.

The Ivey, W. H., farm located on the south side of State Secondary Road 1734 and 0.3 mile east of its junction with State Secondary Road 1731.

The Jackson, Major, farm located on the east side of State Secondary Road 1731 and 0.6 mile north of the Neuse River.

The Jones, Mary, farm located on both sides of State Secondary Road 1730 and its junction with State Secondary Road 1731.

The Lane, Alfred, farm located on the south side of State Secondary Road 1730 and 0.4 mile east of its junction with State Highway 111.

The Lewis, Ben H., farm located on the northeast corner of the intersection of State Secondary Roads 1744 and 1932.

The Lofton, Mary F., farm located on the south side of State Secondary Road 1745 and 0.1 mile west of its junction with State Secondary Road 1952.

The McClenny, G. A., farm located on the south side of State Secondary Road 1007 and 0.1 mile west of the junction of said road with State Highway 581.

The Price, Jessie W., farm located on the east side of State Secondary Road 1948 and 0.7 mile south of the junction of said road and State Secondary Road 1744.

The Ray, Cora Pate, farm located on both sides of State Secondary Road 1730 and 0.8 mile west of its junction of State Secondary Road 1731.

The Raynor, Early, No. 1, farm located on the south side of U.S. Highway 13 and 0.3 mile east of its junction with State Secondary Road 1207.

The Raynor, Early, No. 2, farm located on the north side of State Secondary Road 1101 and 0.7 mile east of its intersection with State Secondary Road 1105.

The Raynor, Elester, farm located on the east side of State Secondary Road 1105 and 0.8 mile south of its intersection with U.S. Highway 13.

The Sasser, Johnny, farm located on the west side of State Secondary Road 1931 and 0.3 mile south of its junction with State Secondary Road 1930.

The Simmons, James, farm located on the southwest side of State Secondary Road 1932 and 0.2 mile northwest of the junction of said road and State Secondary Road 1934.

The Smith, Alfred, farm located on the north side of State Secondary Road 1330 and 0.9 mile west of the junction of said road and North Carolina Highway 581.

The Smith, Allen J., farm located on both sides of State Secondary Road 1953 and 0.5 mile north of State Highway 55.

The Smith, M. G., farm located on the west side of State Secondary Road 1952 and

0.3 mile south of its junction with State Secondary Road 1745.

The Smith, W. H., farm located on the east side of State Secondary Road 1932 and 1.5 miles southeast of intersection of said road and State Secondary Road 1744.

The Talton, Lillian D., farm located on the south side of State Secondary Road 1730 and 0.6 mile east of its junction with State Highway 111.

The Whitfield, Herman, farm located at the end of State Secondary Road 1729.

The Williams, Eddie, farm located on the north side of State Highway 581 and the east side of State Secondary Road 1236 at the junction of said roads.

SOUTH CAROLINA

(1) *Generally infested area.* None.

(2) *Suppressive areas.*

Darlington County. The Atkinson Farms located on both sides of State Secondary Highway 173 and 0.5 mile west of its intersection with State Secondary Highway 35.

The Flowers, William M., farm located on the north side of State Secondary Highway 14 and 1.4 miles east of its intersection with State Secondary Highway 13.

The Green, M.L., farm located on the east side of State Secondary Highway 133 and 0.75 mile north of junction of said highway 133 with State Secondary Highway 29.

The Johnson, William, farm located on the north side of a dirt road and 0.6 mile northwest of its junction with State Secondary Highway 133, said junction being 2 miles south of the intersection of said highway and State Secondary Highway 41.

Dillon County. The entire county.

Florence County. That area bounded by a line beginning at a point where State Secondary Highway 925 and State Secondary Highway 24 junction and extending east and southeast along State Secondary Highway 24 to its junction with State Secondary Highway 13, then along a line projected due east from said junction to its intersection with the Great Pee Dee River, then south along said river to its junction with Barfield's Old Mill Creek, then northwest along said creek to its intersection with State Secondary Highway 57, then north along said highway to its junction with State Secondary Highway 893, then west and southwest along State Secondary Highway 893 to its junction with State Secondary Highway 70, then northwest along said highway to its junction with State Secondary Highway 897, then southwest and south along said highway to its junction with State Primary Highway 51, then west and northwest along said highway to its intersection with State Primary Highway 327, then northwest and west along said highway to its junction with State Secondary Highway 552 then north along said highway to its junction with State Secondary Highway 551, then northwest along a dirt road to its junction with a second dirt road, said junction being 0.1 mile east of Goodland School, then northeast along said second dirt road to its junction with State Secondary Highway 57, then southeast along said highway to its intersection with the Seaboard Coast Line Railroad, then northwest along said railroad to its intersection with State Secondary Highway 13, then east along said highway to its junction with State Secondary Highway 918, then north and northeast along said highway to its junction with State Primary Highway 327, then north along said highway to its intersection with U.S. Highway 76, then west along said highway to its junction with State Secondary Highway 925, then north along said highway to the point of beginning, excluding the area within the unincorporated limits of the town of Hyman.

That area bounded by a line beginning at a point where State Secondary Highway 794 and State Secondary Highway 72 junction and extending south along State Secondary Highway 72 to its intersection with State Secondary Highway 46, then northeast along said highway to its intersection with State Secondary Highway 34, then southeast along said highway to its junction with State Secondary Highway 360, then northeast along said highway to its junction with a dirt road, said junction being 1.6 miles northeast of the junction of State Secondary Highways 34 and 360, then southeast along said dirt road for a distance of 1.2 miles to its junction with a second dirt road, then southwest along said dirt road to its junction with State Secondary Highway 34, then south along said highway to its junction with U.S. Highway 378, then west along said highway to its junction with State Secondary Highway 47, then northwest and west along said highway to the corporate limits of the town of Scranton, then north and west along the east and north perimeter of said corporate limits to its intersection with the Seaboard Coast Line Railroad, then north along said railroad to the corporate limits of the town of Coward, then north along the east perimeter of the town of Coward to its intersection with State Secondary Highway 794, then northeast along said highway to the point of the beginning.

That area bounded by a line beginning at a point where State Secondary Highway 66 and the Seaboard Coast Line Railroad intersect and extending southeast along said railroad to its intersection with State Secondary Highway 57, then south along said highway to its junction with U.S. Highway 378, then west along said highway to its intersection with Deep Creek, then southwest along said creek to its junctions with Lynches River, then west along said river to its junction with Little Swamp, then north along said swamp to its intersection with State Secondary Highway 66, then east along said highway to the point of the beginning.

The McAllister, Armstrong, farm located at the end of a dirt road and 0.4 mile northwest of its junction with another dirt road, then south along said dirt road to its junction with another dirt road, then westerly along said dirt road to its junction with State Secondary Highway 34, said junction being 1.1 miles southeast of the junction of State Secondary Highway 149 with State Secondary Highway 34.

Horry County. That area bounded by a line beginning at a point where State Secondary Highway 33 intersects the South Carolina-North Carolina State line and extending south along said highway to its intersection with State Secondary Highway 306, then west along said highway to its intersection with State Secondary Highway 142, then south along said highway to its junction with State Primary Highway 9, then northwest along said highway to its intersection with State Secondary Highway 59, then southwest and south along said highway to its junction with State Primary Highway 917, then southwest along said highway to its intersection with State Secondary Highway 19, then south and southeast along said highway 19 to its intersection with U.S Highway 701 at Allsbrook, then northeast along said highway to its intersection with State Primary Highway 9, then southeast and south along said highway to its intersection with the Waccamaw River, then northeast along said river to its intersection with South Carolina-North Carolina State line, then southeast along said State line to its intersection with U.S. Highway 17, then southwest along said highway to its junction with State Primary Highway 90, then west along said highway to its intersection with a dirt road known as Telephone Road, said intersection being 1.3 miles west of Wampee, then southwest and south along Telephone Road to its end, then northwest along a projected line for 1.9 miles to its junction with Jones Big Swamp, then northwest along said swamp to its junction with the Waccamaw River, then west along said river to its intersection with Stanley Creek, then north along said creek 1.6 miles, then northwest along said creek 2.8 miles, then north along a line projected from a point beginning at the end of the main run of said creek, and extending north to the junction of said line with State Primary Highway 905, then southwest along said highway to its junction with State Secondary Highway 19, then north along said highway 2.4 miles to its junction with a dirt road.

Then southwest along said road to its intersection with Maple Swamp, then north along said swamp to its intersection with State Secondary Highway 65, then southwest along said highway to its junction with U.S. Highway 701, then south along said highway to its intersection with U.S. Highway 501, then northwest along said highway to its intersection with State Secondary Highway 548, then west along said highway to its junction with a dirt road, then west along said dirt road to its junction with State Secondary Highway 78, then north along said highway to its junction with State Secondary Highway 391, then northeast along said highway to its junction with U.S. Highway 501, then southeast along said highway to its junction with State Secondary Highway 591, then north along said highway to its intersection with State Secondary Highway 97, then east 0.2 mile to its intersection with a dirt road, then north along said dirt road to its junction with State Primary Highway 319, then northwest along said highway to its junction with State Secondary Highway 131, then east and north along said highway to its intersection with Loosing Swamp, then west and northwest along said swamp to its intersection with State Secondary Highway 45, then southwest along said highway to its junction with State Secondary Highway 129, then northwest along said highway to its junction with U.S. Highway 501, then northwest along the latter highway to its intersection with Little Pee Dee River, then northwest along said river to its junction with the Lumber River, then northeast along said river to its intersection with the South Carolina-North Carolina State line, then southeast along said State line to the point of beginning, excluding the area within the corporate limits of the towns of Conway and Loris.

The Alford, Alex, farm located on the south side of a dirt road and being 2 miles southwest and west of the junction of said dirt road and State Secondary Highway 99, said junction being 1.75 miles north of the junction of said highway and State Secondary Highway 97.

The Barnhill, Edgar, farm located on both sides of a dirt road and 0.4 mile east of its junction with State Primary Highway 90, said junction being 0.1 mile northeast of the junction of said highway and State Secondary Highway 377.

The Cooper, Thomas B., farm located northeast of a dirt road and 0.75 miles northwest of the intersection of said dirt road with rural paved road No. 109, said intersection being 2.25 miles northeast of the junction of said rural paved road No. 109 with rural paved road No. 79.

The Edge, Nina L., farm located on the west side of a dirt road and 0.8 mile southeast of its junction with a second dirt road, said junction being 0.5 mile south of the junction of the second dirt road and State Primary Highway 90, said second junction being 0.8 mile southwest of the junction of said highway and State Secondary Highway 31.

The Gore, Sumpter, farm located on both sides of a dirt road and 0.75 mile north of the intersection of said dirt road and State Primary Highway 9, said intersection being at Goretown.

The Hucks, Edd, farm located on the north side of a dirt road and 1 mile west of its junction with State Secondary Highway 109, said junction being 1.5 miles northeast of the junction of said highway and State Secondary Highway 79.

The Martin, Daniele E., farm located on the east side of State Primary Highway 90 and 0.9 mile northeast of the junction of said highway and State Secondary Highway 377.

The Page, Cordie, farm located on the north side of State Secondary Highway 128 and 0.4 mile west of the junction of said highway and U.S. Highway 501, said junction being at Aynor.

The Richardson, Talmage, farm located on the north side of a dirt road and 1 mile southwest of the junction of said dirt road and State Secondary Highway 99, said junction being 1.75 miles north of the junction of said highway and State Secondary Highway 97.

The Williamson, Vide, farm located on both sides of a dirt road and 0.4 mile from the junction of said dirt road and State Primary Highway 410, said junction being 0.7 mile northeast of the intersection of State Primary Highway 410 and State Secondary Highway 19.

Marion County. The entire county.

Marlboro County. That portion of the county lying south and east of U.S. Highway 15, excluding the area within the corporate limits of the towns of Bennettsville, McColl, and Tatum.

The Bowman, Cecil, farm located on both sides of a dirt road and 0.5 mile northeast of junction of said dirt road and State Secondary Highway 257, said junction being 0.4 mile north of junction of said highway and State Secondary Highway 165.

[50 FR 16212, Apr. 25, 1985 and 50 FR 33513, Aug. 20, 1985]

§ 301.80-2b Exempted articles.[1]

(a) The following articles are exempt from the certification and permit and other requirements of this subpart if they meet the applicable conditions prescribed in paragraphs (a) (1) through (5) of this section and have not been exposed to infestation after cleaning or other handling as prescribed in said paragraph:

(1) Small grains, if harvested in bulk or into new or treated containers, and if the grains and containers for the grains have not come in contact with the soil or if they have been cleaned at a designed facility.[2]

(2) Soybeans, when determined by an inspector that the soybeans were grown, harvested, and handled in a manner to prevent contamination from witchweed seed.

(3) Pickling cucumbers, string beans, and field peas, if washed free of soil with running water.

(4) Used farm tools, if cleaned free of soil.

(5) Used mechanized cultivating equipment and used mechanized soil-moving equipment, if cleaned free of soil.

(b) The following article is exempt from the certification and permit requirements of § 301.80-4 under the applicable conditions as prescribed in paragraph (b)(1) of this section:

(1) Seed cotton, if moving to a designated gin.[2]

[42 FR 56334, Oct. 25, 1977]

§ 301.80-3 Conditions governing the interstate movement of regulated articles from quarantined States.[3]

(a) Any regulated articles, except soil samples for processing, testing, or analysis, may be moved interstate from any quarantined State under the following conditions:

(1) With certificate or permit issued and attached in accordance with §§ 301.80-4 and 301.80-7, if moved:

(i) From any generally infested area or any suppressive area into or through any point outside of the regulated areas; or

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[1] The articles hereby exempted remain subject to applicable restrictions under other quarantines.

[2] Information as to designated facilities, gins, oil mills, and processing plants may be obtained from an inspector. Any facility, gin, oil mill, or processing plant is eligible for designation under this subpart if the operator thereof enters into a compliance agreement (as defined in § 301.80-1(b)).

[3] Requirements under all other applicable Federal domestic plant quarantines must also be met.

(ii) From any generally infested area into or through any suppressive area; or

(iii) Between any noncontiguous suppressive areas; or

(iv) Between contiguous suppressive areas when it is determined by an inspector that the regulated articles present a hazard of the spread of the witchweed and the person in possession thereof has been so notified; or

(v) Through or reshipped from any regulated area when such movement is not authorized under paragraph (a)(2)(v) of this section; or

(2) Without certificate or permit if moved:

(i) From any regulated area under the provisions of § 301.80-2b which exempts certain articles from certificate and permit requirements; or

(ii) From a generally infested area to a contiguous generally infested area; or

(iii) From a suppressive area to a contiguous generally infested area; or

(iv) Between contiguous suppressive areas unless the person in possession of the articles has been notified by an inspector that a hazard of spread of the witchweed exists; or

(v) Through or reshipped from any regulated area if the articles originated outside of any regulated area and if the point of origin of the articles is clearly indicated, their identity has been maintained, and they have been safeguarded against infestation while in the regulated area in a manner satisfactory to the inspector; or

(3) From any area outside the regulated areas, if moved:

(i) With a certificate or permit attached; or

(ii) Without a certificate or permit, if:

(A) The regulated articles are exempt from certification and permit requirements under the provisions of § 301.80-2b; or

(B) The point of origin of such movement is clearly indicated on the articles or shipping document which accompanies the articles and if the movement is not made through any regulated area.

(b) Unless specifically authorized by the Deputy Administrator in emergency situations, soil samples for processing, testing, or analysis may be moved interstate from any regulated area only to laboratories approved[4] by the Deputy Administrator and so listed by him in a supplemental regulation.[5] A certificate or permit will not be required to be attached to such soil samples except in those emergency situations where the Deputy Administrator has authorized such movement to another destination with a certificate or permit issued and attached in accordance with §§ 301.80-4(d) and 301.80-7. Soil samples originating in areas outside of the regulated areas will not require such a certificate or permit and their movement is not restricted to approved laboratories if the point of origin of such samples is clearly indicated on the articles or shipping document which accompanies the articles and if the movement is not made through any regulated area.

[41 FR 27373, July 2, 1976]

§ 301.80–4 Issuance and cancellation of certificates and permits.

(a) Certificates may be issued for any regulated articles (except soil samples for processing, testing, or analysis) by an inspector if he determines that they are eligible for certification for movement to any destination under all Federal domestic plant quarantines applicable to such articles and:

(1) Have originated in noninfested premises in a regulated area and have not been exposed to infestation while within the regulated areas; or

(2) Have been treated to destroy infestation in accordance with the treatment manual; or

(3) Have been grown, produced, manufactured, stored, or handled in such a manner that no infestation would be transmitted thereby.

(b) Limited permits may be issued by an inspector to allow interstate movement of regulated articles (except soil samples for processing, testing, or analysis) not eligible for certification under this subpart, to specified destinations for limited handling, utilization, or processing, or for treatment in accordance with the treatment manual, when upon evaluation of the circumstances involved in each specific case he determines that such movement will not result in the spread of witchweed and requirements of other applicable Federal domestic plant quarantines have been met.

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[4] Pamphlets containing provisions for laboratory approval may be obtained from the Deputy Administrator, Plant Protection and Quarantine Programs, APHIS, U.S. Department of Agriculture, Washington, D.C. 20250.

[5] For list of approved laboratories, see (41 FR 4615 and amendments thereof).

(c) Restricted destination permits may be issued by an inspector to allow the interstate movement (for other than scientific purposes) of regulated articles (except soil samples for processing, testing, or analysis) to any destination permitted under all applicable Federal domestic plant quarantines if such articles are not eligible for certification under all such quarantines but would otherwise qualify for certification under this subpart.

(d) Scientific permits to allow the interstate movement of regulated articles, and certificates or permits to allow the movement of soil samples for processing, testing, or analysis in emergency situations, may be issued by the Deputy Administrator under such conditions as may be prescribed in each specific case by the Deputy Administrator to prevent the spread of witchweed.

(e) Certificate, limited permit, and restricted destination permit forms may be issued by an inspector to any person for use by the latter for subsequent shipments of regulated articles (except soil samples for processing, testing, or analysis) provided such person is operating under a compliance agreement; and any such person may be authorized by an inspector to reproduce such forms on shipping containers or otherwise. Any such person may execute and issue the certificate forms, or reproductions of such forms, for the interstate movement of regulated articles from the premises of such person identified in the compliance agreement if such person has treated such regulated articles to destroy infestation in accordance with the treatment manual, and if such regulated articles are eligible for certification for movement to any destination under all Federal domestic plant quarantines applicable to such articles. Any such person may execute and issue the limited permit forms, or reproductions of such forms, for interstate movement of regulated articles to specified destinations when the inspector has made the determinations specified in paragraph (b) of this section. Any such person may execute and issue the restricted destination permit forms, or reproductions of such forms, for the interstate movement of regulated articles not eligible for certification under all Federal domestic plant quarantines applicable to such articles, under the conditions specified in paragraph (c) of this section.

(f) Any certificate or permit which has been issued or authorized may be withdrawn by the inspector or the Deputy Administrator if he determines that the holder thereof has not complied with any condition for the use of such document imposed by this subpart. As soon as possible after such withdrawal, the holder of the certificate or permit shall be notified in writing by the Deputy Administrator or an inspector of the reason therefor and afforded reasonable opportunity to present his views thereon, and if there is a conflict as to any material fact, a hearing shall be held to resolve such conflict.

[35 FR 10553, June 30, 1970, as amended at 36 FR 24917, Dec. 24, 1971; 41 FR 27374, July 2, 1976]

§ 301.80-5 Compliance agreements; and cancellation thereof.

(a) Any person engaged in the business of growing, handling, or moving regulated articles may enter into a compliance agreement to facilitate the movement of such articles under this subpart. Compliance agreement forms may be obtained from the Deputy Administrator or an inspector.

(b) Any compliance agreement may be canceled by the inspector who is supervising its enforcement whenever he finds that such other party has failed to comply with the conditions of the agreement. As soon as possible after such cancellation, such party shall be notified in writing by the Deputy Administrator or an inspector of the reason therefor and afforded reasonable opportunity to present views thereon, and if there is a conflict as to any material fact, a hearing shall be held to resolve such conflict.

[35 FR 10553, June 30, 1970, as amended at 36 FR 24917, Dec. 24, 1971; 41 FR 27374, July 2, 1976]

§ 301.80-6 Assembly and inspection of regulated articles.

Persons (other than those authorized to use certificates, limited permits, or restricted destination permits, or ductions thereof, under § 301.80-4(e)) who desire to move interstate regulated articles which must be accompanied by a certificate or permit shall, as far in advance as possible, request an inspector to examine the articles prior to movement. Such articles shall be assembled at such points and in such a manner as the inspector designates to facilitate inspection.

[35 FR 10553, June 30, 1970, as amended at 36 FR 24917, Dec. 24, 1971; 41 FR 27374, July 2, 1976]

§ 301.80-7 Attachment and disposition of certificates or permits.

(a) If a certificate or permit is required for the interstate movement of regulated articles, the certificates or permit shall be securely attached to the outside of the container in which such articles are moved except that, where the certificate or permit is attached to the waybill or other shipping document, and the regulated articles are adequately described on the certificate, permit or shipping document, the attachment of the certificate or permit to each container of the articles is not required.

(b) In all cases, certificates or permits shall be furnished by the carrier to the consignee at the destination of the shipment.

[35 FR 10553, June 30, 1970, as amended at 36 FR 24917, Dec. 24, 1971]

§ 301.80-8 Inspection and disposal of regulated articles and pests.

Any properly identified inspector is authorized to stop and inspect, and to seize, destroy, or otherwise dispose of, or require disposal of regulated articles and witchweed as provided in section 10 of the Plant Quarantine Act (7 U.S.C. 164a) and section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd), in accordance with instructions issued by the Deputy Administrator.

[35 FR 10553, June 30, 1970, as amended at 36 FR 24917, Dec. 24, 1971; 41 FR 27374, July 2, 1976]

§ 301.80-9 Movement of witchweed.

Regulations requiring a permit for, and otherwise governing the movement of witchweed in interstate or foreign commerce are contained in the Federal plant pest regulations in Part 330 of this chapter. Applications for permits for the movement of the pest may be made to the Deputy Administrator.

[35 FR 10553, June 30, 1970, as amended at 36 FR 24917, Dec. 24, 1971]

§ 301.80-10 Nonliability of the Department.

The United States Department of Agriculture disclaims liability for any costs incident to inspections or compliance with the provisions of the quarantine and regulations in this subpart, other than for the services of the inspector.

[35 FR 10553, June 30, 1970, as amended at 36 FR 24917, Dec. 24, 1971]

Subpart—Imported Fire Ant

SOURCE: 38 FR 3393, Feb. 6, 1973, unless otherwise noted.

QUARANTINE AND REGULATIONS

§ 301.81 Quarantine and regulations; restrictions on interstate movement of regulated articles.

(a) *Quarantine and regulations.* The Secretary of Agriculture hereby quarantines Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, Puerto Rico, South Carolina, and Texas in order to prevent the spread of the imported fire ant (*Solenopsis* spp.), a dangerous insect pest not theretofore widely prevalent or distributed within and throughout the United States; and hereby establishes regulations governing the interstate movement of regulated articles specified in paragraph (b) of this section.

(b) *Quarantine restrictions on interstate movement of specified regulated articles.* No common carrier or other person shall move interstate from any quarantined State any of the following articles (defined in § 301.81-1(p) as regulated articles), except in accordance with the conditions prescribed in this subpart:

(1) Soil, separately or with other things; [1]

(2) Plants with roots with soil attached, except houseplants grown in the home and not for sale;

(3) Grass sod;

(4) Hay and straw;

(5) Used mechanized soil-moving equipment;

(6) Any other products, articles, or means of conveyance of any character whatsoever not covered by paragraphs (b) (1) through (5) of this section when it is determined by an inspector that they present a hazard of spread of the imported fire ant, and the person in possession thereof has been so notified.

(Secs. 105, 106, 71 Stat. 32, 33 (7 U.S.C. 150dd, 150ee); 7 CFR 2.17, 2.51, 371.2)

[38 FR 3393, Feb. 6, 1973, as amended at 39 FR 21118, June 19, 1974; 47 FR 36103, Aug. 19, 1982; 49 FR 48682, Dec. 14, 1984]

§ 301.81-1 Definitions.

Terms used in the singular form in this subpart shall be deemed to import the plural, and vice versa, as the case my demand. The following terms, when used in this subpart, shall be construed respectively to mean:

(a) *Certificate.* A document issued or authorized to be issued under this subpart by an inspector to allow the interstate movement of regulated articles to any destination.

(b) *Compacted soil.* Soil attached to equipment which cannot be removed by brisk brushing or washing with water, or both, under normal city water pressure.

(c) *Compliance agreement.* A written agreement between a person engaged in growing, handling, or moving regulated articles, and the Plant Protection and Quarantine Programs, wherein the former agrees to comply with the requirements of this subpart identified in the agreement by the inspector who executes the agreement on behalf of the Plant Protection and Quarantine Programs as applicable to the operations of such person.

(d) *Deputy Administrator.* The Deputy Administrator of the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or any other officer or employee of said Service to whom authority to act in his stead has been or may hereafter be delegated.

(e) *Generally infested area.* Any part of a regulated area not designated as a suppressive area in accordance with § 301.81-2.

(f) *Imported fire ant.* The live insect known as the imported fire ant (Solenopsis spp.) in any stage of development.

(g) *Infestation.* The presence of the imported fire ant or the existence of circumstances that make it reasonable to believe that imported fire ant is present.

(h) *Inspector.* Any employee of the Plant Protection and Quarantine Programs, U.S. Department of Agriculture, or other person, authorized by the Deputy Administrator to enforce the provisions of the quarantine and regulations in this subpart.

(i) *Interstate.* From any State into or through any other State.

(j) *Limited permit.* A document issued or authorized to be issued by an inspector to allow the interstate movement of noncertified regulated articles to a specified destination for limited handling, utilization, or processing or for treatment.

(k) *Mechanized soil-moving equipment.* Mechanized equipment used to move or transport soil—e.g., draglines, bulldozers, roadscrapers, dumptrucks, etc.

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[1] The movement of soil from Puerto Rico is also subject to additional provisions in 7 CFR Chapter III. It is provided in 7 CFR 330.300 that the movement of soil (moved as such or incidentally adhering to means of conveyance, plants, or other articles) from Puerto Rico into or through any other Territory or possession or the Continental United States is prohibited except under certain conditions specified in said § 330.300 or incorporated by reference in said § 330.300.

(l) *Moved* (*movement, move*). Shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved or allowed to be moved by any means. "Movement" and "move" shall be construed accordingly.

(m) *Person.* Any individual, corporation, company, society, or association, or other organized group of any of the foregoing.

(n) *Plant Protection and Quarantine Programs.* The organizational unit within the Animal and Plant Health Inspection Service delegated responsibility for enforcing provisions of the Plant Quarantine Act and Federal Plant Pest Act, and regulations promulgated thereunder.

(o) *Regulated area.* Any quarantined State, or any portion thereof, listed as a regulated area in § 301.81-2a or otherwise designated as a regulated area in accordance with § 301.81-2(b).

(p) *Regulated articles.* Any articles described in § 301.81(b).

(q) *Restricted destination permit.* A document issued or authorized to be issued by an inspector to allow the interstate movement of regulated articles not certifiable under all applicable Federal domestic plant quarantines to a specified destination for other than scientific purposes.

(r) *Scientific permit.* A document issued by the Deputy Administrator to allow the interstate movement to a specified destination of regulated articles for scientific purposes.

(s) *Soil.* That part of the upper layer of earth in which plants can grow.

(t) *State.* Any State, Territory, or District of the United States, including Puerto Rico.

(u) *Suppressive area.* That portion of a regulated area where eradication of infestation is undertaken as an objective, as designated under § 301.81-2(a).

(v) *Treatment manual.* The provisions currently contained in the "Manual of Administratively Authorized Procedures To Be Used Under the Imported Fire Ant Quarantine," the manual of "Procedures for Applying Soil, Surface, and Foliage Treatments for Regulatory Purposes," and the "Fumigation Procedures Manual" and any amendments thereto.[1]

[38 FR 3393, Feb. 6, 1973, as amended at 39 FR 21118, June 19, 1974]

§ 301.81-2 Authorization to designate, and terminate designation of, regulated areas and suppressive or generally infested areas; and to exempt articles from certification, permit, or other requirements.

(a) *Regulated areas and suppressive or generally infested areas.* The Deputy Administrator shall list as regulated areas, in a supplemental regulation designated as § 301.81-2a, each quarantined State; or each portion thereof in which imported fire ant has been found or in which there is reason to believe that imported fire ant is present, or which it is deemed necessary to regulate because of its proximity to infestation or its inseparability for quarantine enforcement purposes from infested localities. The Deputy Administrator, in the supplemental regulation, may designate any regulated area or portion thereof as a suppressive area or a generally infested area in accordance with the definitions thereof in § 301.81-1. Less than an entire quarantined State will be designated as a regulated area only if the Deputy Administrator is of the opinion that:

(1) The State has adopted and is enforcing a quarantine or regulation which imposes restrictions on the intrastate movement of the regulated articles which are substantially the same as those which are imposed with respect to the interstate movement of such articles under this subpart; and

(2) The designation of less than the entire State as a regulated area will otherwise be adequate to prevent the interstate spread of the imported fire ant.

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[1] Pamphlets containing such provisions are available upon request to the Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250, or from an inspector.

(b) *Temporary designation of regulated areas and suppressive or generally infested areas.* The Deputy Administrator or an inspector may temporarily designate any other premises in a quarantined State as a regulated area and a suppressive or generally infested area, in accordance with the criteria specified in paragraph (a) of this section for listing such area, by serving written notice thereof on the owner or person in possession of such premises, and thereafter the interstate movement of regulated articles from such premises by any person having notice of the designation shall be subject to the applicable provisions of this subpart. As soon as practicable, such premises shall be added to the list in § 301.81-2a if a basis then exists for their designation; otherwise the designation shall be terminated by the Deputy Administrator or an inspector, and notice thereof shall be given to the owner or person in possession of the premises.

(c) *Termination of designation as a regulated area and a suppressive or generally infested area.* The Deputy Administrator shall terminate the designation provided for under paragraph (a) of this section of any area listed as a regulated or suppressive or generally infested area when he determines that such designation is no longer required under the criteria specified in paragraph (a) of this section.

(d) *Exemption of articles from certification, permit, or other requirements.* The Deputy Administrator may, in a supplemental regulation designated as § 301.81-2b, list regulated articles or movements of regulated articles which shall be exempt from the certification, permit, or other requirements of this subpart under such conditions as he may prescribe, if he finds that facts exist as to the pest risk involved in the movement of such regulated articles which make it safe to so relieve such requirements.

§ 301.81-2a Regulated areas; suppressive and generally infested areas.

The civil divisions and parts of civil divisions described below are designated as imported fire ant regulated areas within the meaning of the provisions of this subpart; and such regulated areas are hereby divided into generally infested areas or suppressive areas as indicated below:

ALABAMA

(1) *Generally infested areas.*

Autauga County. The entire county.

Baldwin County. The entire county.

Barbour County. The entire county.

Bibb County. The entire county.

Blount County. The entire county.

Bullock County. The entire county.

Butler County. The entire county.

Calhoun County. The entire county.

Chambers County. The entire county.

Cherokee County. That portion of the county lying south of the north line of T. 9 S.

Chilton County. The entire county.

Choctaw County. The entire county.

Clarke County. The entire county.

Clay County. The entire county.

Cleburne County. The entire county.

Coffee County. The entire county.

Colbert County. That portion of the county lying south of the north line of T. 4 S.; and T. 3 S., R. 13, 14, and 15 W.

Conecuh County. The entire county.

Coosa County. The entire county.

Covington County. The entire county.

Crenshaw County. The entire county.

Cullman County. The entire county.

Dale County. The entire county.

Dallas County. The entire county.

DeKalb County. T. 8 and 9 S., R. 5 E.; W. ⅓ T. 8 and 9 S., R. 6 E.; Secs 21, 22, 23, 24, 25, 26, 27, 28, 33, 34, 35 and 36, T. 9 S., R. 6 E., T. 8 and 9 S., R. 7 E.; T. 8 and 9 S., R. 8 E.; Secs. 26 and 35, T. 7 S., R. 7 E.; Secs 9, 10, 15 and 16, T. 7 S.; R. 8 E.

Elmore County. The entire county.

Escambia County. The entire county.

Etowah County. The entire county.

Fayette County. The entire county.

Franklin County. The entire county.

Geneva County. The entire county.

Greene County. The entire county.

Hale County. The entire county.

Henry County. The entire county.

Houston County. The entire county.

Jefferson County. The entire county.

Lamar County. The entire county.

Lauderdale County. T. 3S., R. 12.

Lawrence County. That portion of the county lying south of the north line of T. 6 S.; E. ½ T. 3, 4 and 5 S., R. 7 W., T. 3, 4 and 5 S., R. 6 W.

Lee County. The entire county.

Limestone County. S. ½, T. 3 S., R. 6 W.; W. ½ T. 4 S., R. 5 W.; T. 4 S., R. 6 W.; T. 5 S., R. 4 W.

Lowndes County. The entire county.

Macon County. The entire county.

Madison County. T. 6 S., R. 2 and 3 E.; T. 5 S., R. 3 E.

Marengo County. The entire county.

Marion County. The entire county.

Marshall County. That portion of the county lying south of the north line of T. 8 S.; T. 7 S., R. 1, 2 and 3 E.; and T. 6 S., R. 2 E.

Mobile County. The entire county.

Monroe County. The entire county.

Montgomery County. The entire county.

Morgan County. T. 4 S., R. 5 W.; T. 5 S., R. 4 and 5 W.; T. 6 S., R. 4 and 5 W.; and that portion of the county lying south of the north line of T. 7 S.

Perry County. The entire county.

Pickens County. The entire county.

Pike County. The entire county.

Randolph County. The entire county.

Russell County. The entire county.

St. Clair County. The entire county.

Shelby County. The entire county.

Sumter County. The entire county.

Talladega County. The entire county.

Tallapoosa County. The entire county.

Tuscaloosa County. The entire county.

Walker County. The entire county.

Washington County. The entire county.

Wilcox County. The entire county.

Winston County. The entire county.

(2) *Suppressive areas.* None.

ARKANSAS

(1) *Generally infested areas.*

Ashley County. The entire county.

Bradley County. The entire county.

Calhoun County. The entire county.

Chicot County. The entire county.

Cleveland County. That portion of the county lying south of the south line of T. 10 S.

Columbia County. The entire county.

Desha County. That portion of the county lying south of the south line of T. 10 S.

Drew County. The entire county.

Lafayette County. The entire county.

Miller County. The entire county.

Ouachita County. The entire county.

Union County. The entire county.

(2) *Suppressive areas.* None.

FLORIDA

(1) *Generally infested areas.* The entire state.

(2) *Suppressive areas.* None.

GEORGIA

(1) *Generally infested areas.*

Appling County. The entire county.

Atkinson County. The entire county.

Bacon County. The entire county.

Baker County. The entire county.

Baldwin County. The entire county.

Barrow County. That portion of the county in Georgia Militia District 316 south of U.S. Highway 29, excluding the corporate city limits of Auburn and Carl.

Bartow County. That portion of the county lying with Georgia Militia Districts 851, 856, 952, 1471, and 1472.

Ben Hill County. The entire county.

Berrien County. The entire county.

Bibb County. The entire county.

Bleckley County. The entire county.

Brantley County. The entire county.

Brooks County. The entire county.

Bryan County. The entire county.

Bulloch County. The entire county.

Burke County. The entire county.

Butts County. The entire county.

Calhoun County. The entire county.

Camden County. The entire county.

Candler County. The entire county.

Carroll County. The entire county.

Charlton County. The entire county.

Chatham County. The entire county.

Chattachoochee County. The entire county.

Chattooga County. That portion of the county lying within Georgia Militia Districts 961, 1083, 1216, and 1484.

Cherokee County. That portion of the county lying within Georgia Militia District 817.

Clarke County. That portion of the county in Georgia Militia District 1467 outside the corporate limits of Athens.

Clay County. The entire county.

Clayton County. The entire county.

Clinch County. The entire county.

Cobb County. The entire county.

Coffee County. The entire county.

Colquitt County. The entire county.

Columbia County. The entire county.

Cook County. The entire county.

Coweta County. The entire county.

Crawford County. The entire county.

Crisp County. The entire county.

Decatur County. The entire county.

De Kalb County. The entire county.

Dodge County. The entire county.

Dooly County. The entire county.

Dougherty County. The entire county.

Douglas County. The entire county.

Early County. The entire county.

Echols County. The entire county.

Effingham County. The entire county.

Emanuel County. The entire county.

Evans County. The entire county.

Fayette County. The entire county.

Floyd County. That portion of the county lying within Georgia Militia Districts 829, 855, 859, 919, 923, 924, 962, 1048, 1059, 1120, 1453, 1478, 1504, 1562, 1688, 1719, and 1822.

Forsyth County. That portion of the county lying within Georgia Militia Districts 879, 1276, and 795.

Fulton County. The entire county.

Glascock County. The entire county.

Glynn County. The entire county.

Grady County. The entire county.

Greene County. The entire county.

Gwinnett County. The entire county.

Hall County. That portion of the county lying within Georgia Militia Districts 413, 1270, and 1419.

Hancock County. The entire county.

Haralson County. The entire county.

Harris County. The entire county.

Heard County. The entire county.

Henry County. The entire county.

Houston County. The entire county.

Irwin County. The entire county.

Jasper County. The entire county.

Jeff Davis County. The entire county.

Jefferson County. The entire county.

Jenkins County. The entire county.

Johnson County. The entire county.

Jones County. The entire county.

Lamar County. The entire county.

Lanier County. The entire county.

Laurens County. The entire county.

Lee County. The entire county.

Liberty County. The entire county.

Lincoln County. That portion of the county lying within Georgia Militia Districts 182, 183, 184, 185, 186, and 269.

Long County. The entire county.

Lowndes County. The entire county.

Macon County. The entire county.

Marion County. The entire county.

McDuffie County. The entire county.

McIntosh County. The entire county.

Meriwether County. The entire county.

Miller County. The entire county.

Mitchell County. The entire county.

Monroe County. The entire county.

Montgomery County. The entire county.

Morgan County. The entire county.

Muscogee County. The entire county.

Newton County. The entire county.

Oconee County. The entire county.

Oglethorpe County. That portion of the county lying within Georgia Militia Districts 227, 228, 229, 230, 232, and 234.

Paulding County. The entire county.

Peach County. The entire county.

Pierce County. The entire county.

Pike County. The entire county.

Polk County. The entire county.

Pulaski County. The entire county.

Putnam County. The entire county.

Quitman County. The entire county.

Randolph County. The entire county.

Richmond County. The entire county.

Rockdale County. The entire county.

Schley County. The entire county.

Screven County. The entire county.

Seminole County. The entire county.

Spalding County. The entire county.

Stewart County. The entire county.

Sumter County. The entire county.

Talbot County. The entire county.

Taliaferro County. The entire county.

Tattnall County. The entire county.

Taylor County. The entire county.

Telfair County. The entire county.

Terrell County. The entire county.

Thomas County. The entire county.

Tift County. The entire county.

Toombs County. The entire county.

Treutlen County. The entire county.

Troup County. The entire county.

Turner County. The entire county.

Twiggs County. The entire county.

Upson County. The entire county.

Walton County. The entire county.

Ware County. The entire county.

Warren County. The entire county.

Washington County. The entire county.

Wayne County. The entire county.

Webster County. The entire county.

Wheeler County. The entire county.

Wilcox County. The entire county.

Wilkes County. That portion of the county lying within Georgia Militia Districts 164, 168, 169, 171, 174, 175, 176, and 177.

Wilkinson County. The entire county.

Worth County. The entire county.

(2) *Suppressive areas.* None.

LOUISIANA

(1) *Generally infested areas.* The entire State.

(2) *Suppressive areas.* None.

MISSISSIPPI

(1) *Generally infested areas.*

Adams County. The entire county.

Alcorn County. The entire county.

Amite County. The entire county.

Attala County. The entire county.

Benton County. That portion of the county lying south of the north line of T. 4 S.

Bolivar County. T. 20 N., R. 6, 7, and 8 W.; T. 21 N., R. 5, 6, and 7 W., and S. ½ T. 22 N., R. 6 W.

Carroll County. The entire county.

Calhoun County. The entire county.

Chickasaw County. The entire county.

Choctaw County. The entire county.

Claiborne County. The entire county.

Clarke County. The entire county.

Clay County. The entire county.

Copiah County. The entire county.

Covington County. The entire county.

Forrest County. The entire county.

Franklin County. The entire county.

George County. The entire county.

Greene County. The entire county.

Grenada County. The entire county.

Hancock County. The entire county.

Harrison County. The entire county.

Hinds County. The entire county.

Holmes County. The entire county.

Humphreys County. The entire county.

Issaquena County. The entire county.

Itawamba County. The entire county.

Jackson County. The entire county.

Jasper County. The entire county.

Jefferson County. The entire county.

Jefferson Davis County. The entire county.

Jones County. The entire county.

Kemper County. The entire county.

Lafayette County. That portion of the county lying south of the north line of T. 10 S., T. 9 S., R. 1, 2, and 3 W.; T. 8 S., R. 1 W.; T. 7 S., R. 1 W., and S.E. ¼, T. 6 S., R. 3 W.

Lamar County. The entire county.

Lauderdale County. The entire county.

Lawrence County. The entire county.

Leake County. The entire county.

Lee County. The entire county.

Leflore County. That portion of the county lying south of the north line of T. 19 N.; S. ½ of T. 20 N., R. 1 E.; and that portion of T. 20 and 21 N., R. 2 E. lying in the county.

Lincoln County. The entire county.

Lowndes County. The entire county.

Madison County. The entire county.

Marion County. The entire county.

Monroe County. The entire county.

Montgomery County. The entire county.

Neshoba County. The entire county.

Newton County. The entire county.

Noxubee County. The entire county.

Oktibbeha County. The entire county.

Panola County. That portion of T. 10 S., R. 5 W. lying in the county and T. 10 S., R. 6 W.

Pearl River County. The entire county.

Perry County. The entire county.

Pike County. The entire county.

Pontotoc County. The entire county.

Prentiss County. The entire county.

Rankin County. The entire county.

Scott County. The entire county.

Sharkey County. The entire county.

Simpson County. The entire county.

Smith County. The entire county.

Stone County. The entire county.

Sunflower County. That portion of the county lying south of the north line of T. 19 N. and T. 20 N., R. 5 W.

Tallahatchie County. That portion of the county lying south of the north line of T. 24 N. and east of the west line of R. 2 E.

Tippah County. That portion of the county lying south of the north line of T. 3 S.

Tishomingo County. The entire county.

Union County. The entire county.

Walthall County. The entire county.

Warren County. The entire county.

Washington County. The entire county.

Wayne County. The entire county.

Webster County. The entire county.

Wilkinson County. The entire county.

Winston County. The entire county.

Yalobusha County. The entire county.

Yazoo County. The entire county.

(2) *Suppressive areas.* None.

North Carolina

(1) *Generally infested areas.*

Anson County. That portion of the county bounded by a line beginning at the intersection of State Secondary Road 1756 and the Pee Dee River; then southwesterly along said road to its intersection with State Secondary Road 1744; then southerly along said road to its intersection with State Secondary Road 1730; then west along said road to its intersection with State Secondary Road 1801; then southeasterly along said road to its intersection with State Highway 145; then northeasterly along said highway to its intersection with U.S. Highway 74; then east along said highway to its intersection with State Secondary Road 1748; then north along said road to its intersection with the Pee Dee River; then northwesterly along said river to the point of beginning.

Beaufort County. That portion of the county bounded by a line beginning where U.S. Highway 17 intersects the Beaufort-Craven County line; then north along said highway to its intersection with State Secondary Road 1127; then easterly along said road to its intersection with State Highway 33; then northwesterly along said highway to its intersection with State Secondary Road 1124; then easterly along said road to its intersection with State Secondary Road 1123; then northwesterly along said road to its intersection with State Secondary Road 1177; then northeasterly along said road to the Pamlico River; then southeasterly along said river to Upper Goose Creek; then north along said creek to its intersection with State Secondary Road 1365; then north along said road to its intersection with State Secondary Road 1332; then north along said road to its intersection with State Secondary Road 1331; then easterly along said road to its intersection with U.S. Highway 264; then easterly along said highway to its intersection with Pungo Creek; then southeasterly along said creek to the Pungo River and the Beaufort-Hyde County line; then southeasterly along said county line to its intersection with the Beaufort-Pamlico County line; then westerly, southerly, and northwesterly along said county line to the Beaufort-Craven County line; then northwesterly along said county line to the point of beginning.

Bladen County. That portion of the county bounded by a line beginning at a point where Bladen, Columbus, and Robeson County lines intersect; then northerly along the Bladen-Robeson County line to its intersection with Black Reedy Meadow Creek; then east along said creek to its intersection with State Highway 131; then southeast along said highway to its intersection with State Highway 41; then easterly along said highway to its intersection with U.S. Highway 701; then northeast along said highway to its intersection with the Cape Fear River; then east along said river to its intersection with Turnbull Creek; then northerly along said creek to its intersection with U.S. Highway 701; then easterly and northeasterly along said highway to its intersection with the Bladen-Sampson County line; then southeasterly along said county line to its intersection with the Bladen-Pender County line; then southerly and southwesterly along said county line to its intersection with the Bladen-Columbus County line; then southwest, northwest, and west along said county line to the point of beginning.

Burnswick County. The entire county.

Carteret County. The entire county.

Columbus County. The entire county.

Craven County. That portion of the county bounded by a line beginning at a point where State Secondary Road 1266 intersects the Craven-Jones County line; then east along said road to its intersection with State Secondary Road 1262; then northeasterly along said road to its intersection with State Secondary Road 1258; then southeasterly along said road to its intersection with State Secondary Road 1256; then southeasterly along said road to its intersection with State Secondary Road 1251; then northeast along said road to its intersection with State Highway 55; then southeast along said highway to its intersection with Cove Creek; then northerly along said creek to its intersection with the Nuese River; then southeasterly along said river to its intersection with State Secondary Road 1449; then northeast along said road to its intersection with State Secondary Road 1400; then north along said road to its intersection with State Secondary Road 1448; then northeasterly along said road to its intersection with State Secondary Road 1444; then northerly along said road to its intersection with State Highway 118; then easterly along said road to its intersection with State Secondary Road 1654; then easterly along said road to its intersection with Business U.S. Highway 17; then north along said highway to its intersection with State Secondary Road 1638; then easterly along said road to its intersection with the Craven-Beaufort County line; then southeast along said county line to its intersection with the Craven-Pamlico County line; then southerly and easterly along said county line to its intersection with the Craven-Carteret County line; then southeasterly and southwesterly along said county line to its intersection with the Craven-Jones County line; then north and west along said county line to the point of beginning.

Duplin County. That area bounded by a line beginning at the intersection of the Duplin-Sampson County line with State Secondary Road 1130; then east along said road to its intersection with State Secondary Road 1129; then northeast along said road to its intersection with State Highway 41; then southeast along said highway to its intersection with State Highway 11; then northerly along said highway to its intersection with State Secondary Road 1555; then northeast along said road to its intersection with State Secondary Road 1553; then southeasterly along said road to its intersection with State Secondary Road 1551; then east along said road to its intersection with State Secondary Road 1549; then southerly along said road to its intersection with State Highway 11; then east along said highway to its intersection with the Duplin-Lenoir County line; then southerly along said county line to its intersection with the Duplin-Jones County line; then southeast along said county line to its intersection with Duplin-Onslow County line; then southerly along said county line to its intersection with the Duplin-Pender County line; then west along said county line to its intersection with the Duplin-Sampson County line; then westerly along said county line to the point of beginning.

Jones County. The entire county.

Lenoir County. That portion of the county bounded by a line beginning at a point where State Secondary Road 1165 intersects the Lenoir-Duplin County line; then east along said road to its intersection with State Secondary Road 1111; then south along said road to its intersection with State Secondary Road 1112; then east along said road to its intersection with State Highway 11; then north along said highway to its intersection with State Secondary Road 1116; then east along said road to its intersection with State Secondary Road 1130; then northeasterly along said road to its intersection with State Secondary Road 1136; then east along said road to its intersection with State Secondary Road 1137; then northeasterly along said road to its intersection with State Secondary Road 1925; then east along said road to its intersection with State Secondary Road 1912; then north along said road to its intersection with State Secondary Road 1913; then easterly along said road to its intersection with State Secondary Road 1903; then south along said road to its intersection with State Secondary Road 1915; then southeasterly along said road to the Lenoir-Jones County line; then southerly along said county line to the Lenoir-Duplin County line; then northerly along said county line to the point of beginning.

New Hanover County. The entire county.

Onslow County. The entire county.

Pamlico County. The entire county.

Pender County. The entire county.

Robeson County. That portion of the county bounded by a line beginning at a point where the Seaboard Coastline Railroad intersects the North Carolina-South Carolina State line, thence northeast along said railroad to its intersection with the

Lumber River, thence southeast and east along said river to its intersection with State Secondary Road 1003, thence northeast along said road to its intersection with State Highway 211, thence east along said highway to its intersection with State Highway 41, thence east along said highway to its intersection with the Robeson-Bladen County line, thence southeast along the Robeson County line to its junction with the North Carolina-South Carolina State line, thence northwest along said State line to the point of beginning.

Sampson County. That portion of the county bounded by a line beginning at a point where U.S. Highway 701 intersects the Sampson-Bladen County line; then east along an imaginary line to the intersection of State Secondary Road 1132 and State Secondary Road 1133; then easterly along State Secondary Road 1133 to its intersection with State Highway 411; then east and south along said highway to its intersection with State Secondary Road 1125; then south along said road to its intersection with State Highway 41; then east along said highway to its intersection with U.S. Highway 421; then north along said highway to the Sampson-Duplin County line; then easterly along said county line to the Sampson-Pender County line; then southwesterly along said county line to the Sampson-Bladen County line; then northwesterly along said county line to the point of beginning.

(2) *Suppressive areas.* None.

PUERTO RICO

(1) *Generally infested areas.* All of Puerto Rico.

(2) *Suppressive areas.* None.

SOUTH CAROLINA

(1) *Generally infested areas.*

Aiken County. The entire county.
Allendale County. The entire county.
Bamberg County. The entire county.
Barnwell County. The entire county.
Beaufort County. The entire county.
Berkeley County. The entire county.
Calhoun County. The entire county.
Charleston County. The entire county.
Clarendon County. The entire county.
Colleton County. The entire county.
Darlington County. The entire county.
Dillon County. The entire county.
Dorchester County. The entire county.
Edgefield County. The entire county.
Fairfield County. The entire county.
Florence County. The entire county.
Georgetown County. The entire county.
Hampton County. The entire county.
Horry County. The entire county.
Jasper County. The entire county.
Kershaw County. The entire county.
Lancaster County. The entire county.
Lee County. The entire county.
Lexington County. The entire county.
Marion County. The entire county.

Marlboro County. That portion of the county bounded by a line beginning at the intersection of U.S. Highway 15 and 401 with the South Carolina-North Carolina State line, then southeast along said State line to its junction with the Marlboro-Dillon County line, then southwest along said county line to its junction with the Great Pee Dee River, then northwesterly along said river to a point due west from the junction of State Secondary Highway 209 and State Primary Highway 912, then due east along an imaginary line from said point to said junction, then northeast from said junction along State Primary Highway 912 to its junction with State Secondary Highway 33, then east along said highway to its intersection with State Primary Highway 9, then southeast along said highway to its intersection with the corporate limits of the city of Bennettsville, then southerly, westerly, and easterly along said city limits to its intersection with State Primary Highway 9, then southeast along said highway to its intersection with U.S. Highway 15 and 401, then northeasterly along said highway to the point of beginning, excluding the cities of Bennettsville, McColl, and Tatum.

McCormick County. That portion of the county bounded by a line beginning at the junction of State Secondary Highway 179 and the Clark Hill Reservoir, thence northeast along said highway to its junction with State Primary Highway 283 at Plum Branch, thence east along said highway to its intersection with the McCormick-Edgefield County line, thence southerly along said county line to its junction with the Savannah River, thence northwesterly along said river and Clark Hill Reservoir to the point of beginning.

Newberry County. That portion of the county bounded by a line beginning at a point where U.S. Highway 76 intersects the Newberry-Laurens County line, then northeasterly, easterly, southerly, and westerly along the Newberry County line to its intersection with State Primary Highway 395, then northerly along said highway to its junction with State Secondary Highway 41, then northeasterly along said highway to its junction with U.S. Highway 76, then northwesterly along said highway to the point of beginning.

Orangeburg County. The entire county.
Richland County. The entire county.
Sumter County. The entire county.
Williamsburg County. The entire county.

(2) *Suppressive areas.* None.

TEXAS

(1) *Generally infested areas.*

Anderson County. The entire county.

Angelina County. The entire county.

Aransas County. The entire county.

Atascosa County. The entire county.

Austin County. The entire county.

Bandera County. That portion of the county bounded by a line beginning at a point where Texas Highway 16 intersects the Bandera-Kerr County line, thence southeasterly along said county line to its junction with the Bandera-Kendall County line, thence southeasterly along said county line to its junction with the Bandera-Bexar County line, thence southwesterly along said county line to its junction with the Bandera-Medina County line, thence southwesterly, westerly, northerly, and westerly along said county line to its intersection with Farm to Market Road 689, thence northerly along said road to its intersection with Texas Highway 16, thence northwesterly along said highway to the point of beginning, including the towns of Bandera and Medina.

Bastrop County. The entire county.

Bee County. That portion of the county bounded by a line beginning at a point where U.S. Highway 59 intersects with the Bee-Live Oak County line, thence easterly along said highway to its intersection with Farm to Market Road 351, thence southeasterly along said road to its junction with State Highway 202, thence easterly along said highway to its intersection with the Bee-Refugio County line, thence southwesterly along said county line to its junction with the Bee-San Patricio County line, thence southwesterly and northwesterly along said county line to its junction with the Bee-Live Oak County line, thence northeasterly and northwesterly along said county line to the point of beginning, but excluding the city of Beeville.

Bell County. The entire county.

Bexar County. The entire county.

Blanco County. The entire county.

Bowie County. That portion of the county bounded by a line beginning at a point where Farm to Market Road 2148 intersects Interstate Highway 30, thence easterly along said highway to its intersection with the Texas-Arkansas State line, thence southerly along said State line to its intersection with Sulphur River, thence northwesterly and westerly along said river to its intersection with U.S. Highway 59, thence northerly along said highway to its junction with Farm to Market Road 2148, thence northerly along said road to the point of beginning.

Brazoria County. The entire county.

Brazos County. The entire county.

Burleson County. The entire county.

Caldwell County. The entire county.

Calhoun County. The entire county.

Camp County. That area within a circle having a radius of 3 miles with the center at the intersection of loop 238 and State Hig way 11.

Cass County. That portion of the count lying east of U.S. Highway 59 including th cities of Atlanta and Queen City, but e cluding the city of Linden.

Chambers County. The entire county.

Cherokee County. The entire county.

Collin County. The entire county.

Colorado County. The entire county.

Comal County. The entire county.

Dallas County. The entire county.

Denton County. The entire county.

De Witt County. The entire county.

Ellis County. The entire county.

Falls County. The entire county.

Fayette County. The entire county.

Fort Bend County. The entire county.

Freestone County. The entire county.

Frio County. That portion of the count bounded by a line beginning at a poin where Farm to Market Road 462 intersect the Frio-Median County line, thence eas along said county line to its junction wit the Frio-Atascosa County line, thence sout along said county line to its junction wit the Frio-LaSalle County line, thence wes along said county line to its intersectio with Farm to Market Road 1582, thenc northwest along said road to its junctio with U.S. Highway 81, thence northeas along said highway to its intersection wit Farm to Market Road 140, thence north westerly along said road to its intersectio with Interstate Highway 35, thence norther ly along said highway to its intersectio with Farm to Market Road 462, thenc northwest along said road to the point o beginning, including the city of Pearsall an the town of Moore.

Galveston County. The entire county.

Gillespie County. The entire county.

Goliad County. The entire county.

Gonzales County. The entire county.

Grayson County. That portion of the county lying south of a line beginning at a point where State Highway 56 intersects the Cooke-Grayson County line, thence east along said highway to its junction with U.S. Highway 82, thence east along said highway to its intersection with the Grayson-Fannin County line, but excluding the city of Sherman and the towns of Whitesboro, Southmayd, and Bells.

Gregg County. The entire county.

Grimes County. The entire county.

Guadalupe County. The entire county.

Hardin County. The entire county.

Harris County. The entire county.

Harrison County. The entire county.

Hays County. The entire county.

Henderson County. That portion of the county lying east of a line beginning at a point where Farm to Market Road 314 intersects the Van Zandt-Henderson County line, thence south along said road to its junction with Farm to Market Road 315, thence southwesterly along said road to its junction with the Henderson-Anderson County line, but excluding the cities of Brownsboro, Moor Station and Poynor.

Hill County. The entire county.

Houston County. The entire county.

Jackson County. The entire county.

Jasper County. The entire county.

Jefferson County. The entire county.

Jim Wells County. That portion of the county lying north of a line beginning at a point where Farm to Market Road 2295 intersects the Jim Wells-Duval County line, thence southeast and east along said road to its junction with State Highway 141, thence east along said highway to its intersection with the Jim Wells-Kleberg County line, but excluding the city of San Diego.

Johnson County. The entire county.

Kendall County. The entire county.

Kerr County. The entire county.

Kleberg County. The entire county.

Lavaca County. The entire county.

Lee County. The entire county.

Leon County. The entire county.

Liberty County. The entire county.

Limestone County. The entire county.

Live Oak County. The entire county.

Madison County. The entire county.

Marion County. The entire county.

Matagorda County. The entire county.

McLennan County. The entire county.

Medina County. That portion of the county bounded by a line beginning at a point where Texas Farm to Market Road 689 intersects the Medina-Bandera County line, thence easterly, southerly, and northeasterly along said county line to its junction with the Medina-Bexar County line, thence south along said county line to its junction with the Medina-Frio County line, thence west along said county line to its intersection with Texas Farm to Market Road 462, thence northwest and north along said road to its intersection with U.S. Highway 90, thence east along said highway to its junction with Texas Farm to Market Road 689, thence northerly along said highway to the point of beginning, excluding the towns of Yancey and Hondo.

Milan County. The entire county.

Montgomery County. The entire county.

Nacogdoches County. The entire county.

Navarro County. The entire county.

Newton County. The entire county.

Nueces County. The entire county.

Orange County. The entire county.

Panola County. The entire county.

Polk County. The entire county.

Rains County. That portion of the county bounded by a line beginning at a point where U.S. Highway 69 intersects the Rains-Hunt County line, thence southeasterly along said highway to its junction with Farm to Market Road 47, thence southerly and southwesterly along said road to its intersection with the Rains-Van Zandt County line, thence northwesterly along said county line to its junction with the Rains-Hunt County line, thence northerly and easterly along said county line to the point of beginning, but excluding the city of Point.

Refugio County. The entire county.

Robertson County. The entire county.

Rockwall County. The entire county.

Rusk County. The entire county.

Sabine County. The entire county.

San Augustine County. The entire county.

San Jacinto County. The entire county.

San Patricio County. The entire county.

Shelby County. The entire county.

Smith County. The entire county.

Tarrant County. The entire county.

Travis County. The entire county.

Trinity County. The entire county.

Tyler County. The entire county.

Upshur County. The entire county.

Victoria County. The entire county.

Walker County. The entire county.

Waller County. The entire county.

Washington County. The entire county.

Wharton County. The entire county.

Williamson County. The entire county.

Wilson County. The entire county.

Wood County. The entire county.

(2) *Suppressive areas.* None.

(Secs. 8, 9, 37 Stat. 318, as amended, sec. 106, 71 Stat. 33 (7 U.S.C. 161, 162, 150ee); 37 FR 28464, 28477 as amended; 38 FR 19141; 7 CFR 301.81–2, 39 FR 21117, secs. 105, 106, 71 Stat. 32, 33 (7 U.S.C. 150dd, 150ee); 7 CFR 2.17, 2.51, 371.2)

[47 FR 1260, Jan. 12, 1982, and 47 FR 23683, June 1, 1982, as amended at 47 FR 36103, Aug. 19, 1982; 47 FR 41098, Sept. 17, 1982; 48 FR 2957, Jan. 24, 1983; 48 FR 40200, Sept. 6, 1983; 48 FR 48449, Oct. 19, 1983; 48 FR 55547, Dec. 14, 1983; 49 FR 29554, July 23, 1984; 49 FR 48682, Dec. 14, 1984; 49 FR 49279, Dec. 19, 1984; 50 FR 34448, Aug. 26, 1985; 50 FR 48551, Nov. 26, 1985]

§ 301.81–2b Exempted articles.[1]

The following articles are exempt from the certification, permit, or other requirements of this subpart if they meet the applicable conditions prescribed in paragraphs (a) through (d) of this section and have not been exposed to infestation after cleaning or other handling as prescribed in said paragraphs:[2]

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[1] The articles hereby exempted remain subject to applicable restrictions under other quarantines.

[2] The interstate movement of soil from Puerto Rico is also subject to additional pro-

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(a) Potting soil, if commercially prepared, packaged, and shipped in original containers.

(b) Hay and straw, if being used for packing or bedding.

(c) Used mechanized soil-moving equipment, if it has only compacted soil or is cleaned of all noncompacted[3] soil.

(d) Transplants, if substantially free of soil.

(Secs. 105, 106, 71 Stat. 32, 33 (7 U.S.C. 150dd, 150ee); 7 CFR 2.17, 2.51, 371.2)

[39 FR 40576, Nov. 19, 1974; 39 FR 41719, Dec. 2, 1974, as amended at 47 FR 36103, Aug. 19, 1982; 49 FR 48682, Dec. 14, 1984]

§ 301.81-3 Conditions governing the interstate movement of regulated articles from quarantined States.[4]

(a) Any regulated articles except soil samples for processing, testing, or analysis may be moved interstate from any quarantined State under the following conditions:

(1) With certificate or permit issued and attached in accordance with §§ 301.81-4 and 301.81-7 if moved:

(i) From any generally infested area or any suppressive area into or through any point outside of the regulated areas; or

(ii) From any generally infested area into or through any suppressive area; or

(iii) Between any noncontiguous suppressive area; or

(iv) Between contiguous suppressive areas when it is determined by an inspector that the regulated articles present a hazard of the spread of the imported fire ant and the person in possession thereof has been so notified; or

(v) Through or reshipped from any regulated area when such movement is not authorized under paragraph (a)(2)(v) of this section; or

(2) From any regulated area, without certificate or permit if moved:

(i) Under the provisions of § 301.81-2b which exempts certain articles from certificate and permit requirements; or

(ii) From a generally infested area to a contiguous generally infested area; or

(iii) From a suppressive area to a contiguous generally infested area; or

(iv) Between contiguous suppressive areas unless the person in possession of the articles has been notified by an inspector that a hazard of spread of the imported fire ant exists; or

(v) Through or reshipped from any regulated area if the articles originated outside of any regulated area and if the point of origin of the articles is clearly indicated, their identity has been maintained, and they have been safeguarded against infestation while in the regulated area in a manner satisfactory to the inspector; or

(3) From any area outside the regulated areas, if moved:

(i) With a certificate or permit attached; or

(ii) Without a certificate or permit, if:

(*a*) The regulated articles are exempt from certification and permit requirements under the provisions of § 301.81-2b; or

(*b*) The point of origin of such movement is clearly indicated on the articles or shipping document which accompanies the articles and if the movement is not made through any regulated area.

(b) Unless specifically authorized by the Deputy Administrator in emergency situations, soil samples for processing, testing, or analysis may be moved interstate from any regulated area only to laboratories approved[5] by the

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visions in 7 CFR Chapter III. It is provided in 7 CFR 330.300 that the movement of soil (moved as such or incidentally adhering to means of conveyance, plants, or other articles) from Puerto Rico into or through any other Territory or possession or the Continental United States is prohibited except under certain conditions specified in said § 330.300 or incorporated by reference in said § 330.300.

[3] Compacted soil is defined as soil attached to equipment which cannot be removed by brisk brushing and/or washing with water under normal city water pressure.

[4] Requirements under all other applicable Federal domestic plant quarantines must also be met.

[5] Pamphlets containing provisions for laboratory approval may be obtained from the Deputy Administrator, Plant Protection and Quarantine Programs, APHIS, U.S. Depart-

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Deputy Administrator and so listed by him in a supplemental regulation.[6] A certificate or permit will not be required to be attached to such soil samples except in those situations where the Deputy Administrator has authorized such movement only with a certificate or permit issued and attached in accordance with §§ 301.81-4 and 301.81-7. A certificate or permit will not be required to be attached to soil samples originating in areas outside of the regulated areas if the point of origin of such movement is clearly indicated on the articles or shipping document which accompanies the articles and if the movement is not made through any regulated area.

(Secs. 105, 106, 71 Stat. 32, 33 (7 U.S.C. 150dd, 150ee); 7 CFR 2.17, 2.51, 371.2)

[38 FR 3393, Feb. 6, 1973, as amended at 39 FR 21118, June 19, 1974; 47 FR 36103, Aug. 19, 1982; 49 FR 48682, Dec. 14, 1984]

§ 301.81-4 Issuance and cancellation of certificates and permits.

(a) Certificates may be issued for any regulated articles by an inspector if he determines that they are eligible for certification for movement to any destination under all Federal domestic plant quarantines applicable to such articles and:

(1) Have originated in noninfested premises in a regulated area and have not been exposed to infestation while within the regulated areas; or

(2) Upon examination, have been found to be free of infestation; or

(3) Have been treated to destroy infestation in accordance with the treatment manual; or

(4) Have been grown, produced, manufactured, stored, or handled in such a manner that no infestation would be transmitted thereby.

(b) Limited permits may be issued by an inspector to allow interstate movement of regulated articles not eligible for certification under this subpart, to specified destinations for limited handling, utilization, or processing, or for treatment in accordance with the treatment manual, when, upon evaluation of the circumstances involved in each specific case, he determines that such movement will not result in the spread of the imported fire ant and requirements of other applicable Federal domestic plant quarantines have been met.

(c) Restricted destination permits may be issued by an inspector to allow the interstate movement (for other than scientific purposes) of regulated articles to any destination permitted under all applicable Federal domestic plant quarantines if such articles are not eligible for certification under all such quarantines but would otherwise qualify for certification under this subpart.

(d) Scientific permits to allow the interstate movement of regulated articles may be issued by the Deputy Administrator under such conditions as may be prescribed in each specific case by the Deputy Administrator to prevent the spread of the imported fire ant.

(e) Certificate, limited permit, and restricted destination permit forms may be issued by an inspector to any person for use for subsequent shipments of regulated articles provided such person is operating under a compliance agreement; and any such person may be authorized by an inspector to reproduce such forms on shipping containers or otherwise. Any such person may execute and issue the certificate forms, or reproductions of such forms, for the interstate movement of regulated articles from the premises of such person identified in the compliance agreement if such person has treated such regulated articles to destroy infestation in accordance with the treatment manual, and if such regulated articles are eligible for certification for movement to any destination under all Federal domestic plant quarantines applicable to such articles. Any such person may execute and issue the limited permit forms or reproductions of such forms, for interstate movement of regulated articles to specified destinations when the inspector has made the determinations specified in paragraph (b) of this section. Any such person may execute and issue the restricted destination permit forms, or reproductions of such

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ment of Agriculture, Washington, D.C. 20250.

[6] For list of approved laboratories, see 39 FR 8362, 9683, and amendments thereof.

forms, for the interstate movement of regulated articles not eligible for certification under all Federal domestic plant quarantines applicable to such articles, under the conditions specified in paragraph (c) of this section.

(f) Any certificate or permit which has been issued or authorized may be withdrawn by the inspector or the Deputy Administrator if he determines that the holder thereof has not complied with any condition for the use of such document imposed by this subpart. Prior to such withdrawal, the holder of the certificate or permit shall be notified of the proposed action and the reason therefor and afforded reasonable opportunity to present his views thereon.

§ 301.81-5 Compliance agreement, and cancellation thereof.

(a) Any person engaged in the business of growing, handling, or moving regulated articles may enter into a compliance agreement to facilitate the movement of such articles under this subpart. Compliance agreement forms may be obtained from the Deputy Administrator or an inspector.

(b) Any compliance agreement may be canceled by the inspector who is supervising its enforcement whenever he finds, after notice and reasonable opportunity to present views has been accorded to the other party thereto, that such other party has failed to comply with the conditions of the agreement.

§ 301.81-6 Assembly and inspection of regulated articles.

Persons (other than those authorized to use certificates, limited permits, or restricted destination permits or reproductions thereof, under § 301.81-4(e)) who desire to move interstate regulated articles which must be accompanied by a certificate or permit shall, as far in advance as possible, request an inspector to examine the articles prior to movement. Such articles shall be assembled at such points and in such manner as the inspector designates to facilitate inspection.

§ 301.81-7 Attachment and disposition of certificates and permits.

(a) If a certificate or permit is required for the interstate movement of regulated articles, the certificate or permit shall be securely attached to the outside of the container in which such articles are moved, except that, where the certificate or permit is attached to the waybill or other shipping document, and the regulated articles are adequately described on the certificate, permit, or shipping document, the attachment of the certificate or permit to each container of the articles is not required.

(b) In all cases, certificates or permits shall be furnished by the carrier to the consignee at the destination of the shipment.

§ 301.81-8 Inspection and disposal of regulated articles and pests.

Any properly identified inspector is authorized to stop and inspect, and to seize, destroy, or otherwise dispose of, or require disposal of regulated articles and imported fire ants as provided in section 10 of the Plant Quarantine Act (7 U.S.C. 164a) and section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd) in accordance with instructions issued by the Deputy Administrator.

§ 301.81-9 Movement of live imported fire ants.

Regulations requiring a permit for and otherwise governing the movement of live imported fire ants in interstate or foreign commerce are contained in the Federal Plant Pest Regulations in Part 330 of this chapter. Applications for permits for the movement of the pest may be made to the Deputy Administrator.

§ 301.81-10 Nonliability of the Department.

The U.S. Department of Agriculture disclaims liability for any costs incident to inspections or compliance with the provisions of the quarantine and regulations in this subpart, other than for the services of the inspector.

Subpart—Unshu Oranges

§ 301.83 Notice of quarantine.

Under the authority conferred by sections 8 and 9 of the Plant Quarantine Act of 1912, as amended (7 U.S.C. 161, 162) and after public hearing, it has been determined that in order to prevent the interstate dissemination of citrus canker disease, it is necessary to prohibit the movement from the States of Alaska, Hawaii, Idaho, Montana, Oregon, and Washington into or through any State other than those named, or into or through any territory or district of the United States, of Unshu (Satsuma) oranges grown in Japan and imported into any of the specified States subject to Notice of Quarantine No. 28 (§ 319.28(b) of this chapter). Accordingly, under said authority, the States of Alaska, Hawaii, Idaho, Montana, Oregon, and Washington are quarantined and the aforesaid Japanese-grown Unshu (Satsuma) oranges are prohibited movement therefrom into or through any State other than those named, or into or through any territory or district of the United States.

[37 FR 7481, Apr. 15, 1972]

Subpart—Golden Nematode

SOURCE: 37 FR 24330, Nov. 16, 1972, unless otherwise noted.

QUARANTINE AND REGULATIONS

§ 301.85 Quarantine; restriction on interstate movement of specified regulated articles.

(a) *Notice of quarantine.* Pursuant to the provisions of sections 8 and 9 of the Plant Quarantine Act of August 20, 1912, as amended, and section 106 of the Federal Plant Pest Act (7 U.S.C. 161, 162, 150ee), the Secretary of Agriculture heretofore determined after public hearing that it was necessary to quarantine the State of New York in order to prevent the spread of the golden nematode (*Heterodera rostochiensis*), which causes a dangerous disease of potatoes and certain other plants, and not theretofore widely prevalent or distributed within and throughout the United States. Therefore, under the authority of said provisions, the Secretary hereby continues to quarantine the State of New York, with respect to the interstate movement from the quarantined State of the articles described in paragraph (b) of this section, issues the regulations in this subpart governing such movement, and gives notice of said quarantine and regulations.

(b) *Quarantine restrictions on interstate movement of specified regulated articles.* No common carrier or other person shall move interstate from any quarantined State any of the following articles (defined in § 301.85-1(q) as regulated articles), except in accordance with the conditions prescribed in this subpart:

(1) Soil, compost, humus, muck, peat, and decomposed manure, separately or with other things.

(2) Plants with roots, except soil-free aquatic plants.

(3) Grass sod.

(4) Plant crowns and roats for propagation.

(5) True bulbs, corms, rhizomes, and tubers of ornamental plants.

(6) Irish potatoes included within any one or more of the following paragraph (b)(6)(i), (ii), or (iii) of this section:

(i) Irish potatoes for seed; and

(ii) Irish potatoes unless—

(A) Each is at least 1½ inches in diameter based on measurement by a sizing screen or sizing chain, each is substantially free of soil as a result of grading (a method of removing soil mechanically) under a compliance agreement in accordance with § 301.85-5(b), and they are moved in an approved container; or

(B) Each is substantially free of soil as a result of washing or fluming under a compliance agreement in accordance with § 301.85-5(b), and they are moved in an approved container; or

(iii) Irish potatoes harvested from a field tested and found by an inspector to contain an identifiable population of viable golden nematodes, unless such field had been subsequently treated in accordance with paragraph (b)(6)(ii) (A), (B), or (C) of this section under the supervision of an inspector and in accordance with any additional conditions found necessary by the inspector to assure effective application of the pesticide used; and unless headlands and farm roads are treated in accordance with paragraph (b)(6)(iii)(D) of this section:

(A) Applications of 140.3 liters of Vorlex (1,3 dichloropropene; 1,2 dichloropropane, and other related compounds, 80 percent; plus methyl isothiocyanate, 20 percent active ingredients) per hectare (15 gallons per acre); two applications 5 to 10 days apart with a third application 5 to 10 days after the second application to areas in which the inspector finds upon microscopic examination of soil samples that viable golden nematodes may still exist; soil to be from 3° C to 29° C (38° F to 84° F).

(B) Applications of 280.6 liters of D-D (1,3 dichloropropene; 1,2 dichloropropane, and other related compounds, 100 percent active ingredients) per hectare (30 gallons per acre); two applications 5 to 10 days apart with a third application 5 to 10 days after the second application to areas in which the inspector finds upon microscopic examination of soil samples that viable golden nematodes may still exist (consult product label for heavier dosage in muck or peat soils); soil to be from 4.5° C to 29° C (40° F to 84° F).

(C) Applications of 168.4 liters of Telone II (1,3 dichloropropene, 92 percent active ingredient) per hectare (18 gallons per acre); two applications 5 to 10 days apart with a third application 5 to 10 days after the second application to areas in which the inspector finds upon microscopic examination of soil samples that viable golden nematodes may still exist (consult product label for heavier dosage in muck or peat soils); soil to be from 4.5° C to 32° C (40° F to 90° F).

(D) Application of Vapam (sodium-N-methyl dithiocarbamate, 32.7 percent active ingredient) mixed with water at the rate of 1 part Vapam to 60 parts water and applied as a drench at the rate of 14.96 cubic meters per hectare (1600 gallons per acre); soil to be from 4.5° C to 32° C (40° F to 90° F).

(7) Root crops other than Irish potatoes.

(8) Small grains and soybeans.

(9) Hay, straw, fodder, and plant litter, of any kind.

(10) Ear corn, except shucked ear corn.

(11) Used crates, boxes, and burlap bags, and other used farm products containers.

(12) Used farm tools.

(13) Used mechanized cultivating equipment and used harvesting equipment.

(14) Used mechanized soil-moving equipment.

(15) Any other products, articles, or means of conveyance of any character whatsoever, not covered by paragraphs (b) (1) through (14) of this section, when it is determined by an inspector that they present a hazard of spread of golden nematode, and the person in possession thereof has been so notified.

(Secs. 105 and 106, 71 Stat. 32, 33 (7 U.S.C. 150dd, 150ee); 37 FR 28464, 28477, as amended; 45 FR 8564, 8565; secs. 105 and 106, 71 Stat. 32, 33 (7 U.S.C. 150dd, 150ee); 7 CFR 2.17, 2.51, and 371.2)

[37 FR 24330, Nov. 16, 1972, as amended at 47 FR 12331, Mar. 23, 1982; 47 FR 33665, Aug. 4, 1982]

§ 301.85-1 Definitions.

Terms used in the singular form in this subpart shall be deemed to import the plural and vice versa, as the case may demand. The following terms, when used in this subpart shall be construed respectively to mean:

(a) *Certificate.* A document issued or authorized to be issued under this subpart by an inspector to allow the interstate movement of regulated articles to any destination.

(b) *Compliance agreement.* A written agreement between a person engaged in growing, handling, or moving regulated articles, and the Plant Protection and Quarantine Programs, wherein the former agrees to comply with the requirements of this subpart identified in the agreement by the inspector who executes the agreement on behalf of the Plant Protection and Quarantine Programs as applicable to the operations of such person.

(c) *Deputy Administrator.* The Deputy Administrator of the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection

Service, U.S. Department of Agriculture, or any other officer or employee of said service to whom authority to act in his stead has been or may hereafter be delegated.

(d) *Farm tools.* An instrument worked or used by hand, e.g., hoes, rakes, shovels, axes, hammers, and saws.

(e) *Generally infested area.* Any part of a regulated area not designated as a suppressive area in accordance with § 301.85–2.

(f) *Golden nematode.* The nematode known as the golden nematode (*Heterodera rostochiensis*), in any stage of development.

(g) *Infestation.* The presence of the golden nematode or the existence of circumstances that make it reasonable to believe that the golden nematode is present.

(h) *Inspector.* Any employee of the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or other person, authorized by the Deputy Administrator to enforce the provisions of the Quarantine and regulations in this subpart.

(i) *Interstate.* From any State into or through any other State.

(j) *Limited permit.* A document issued or authorized to be issued by an inspector to allow the interstate movement of noncertifiable regulated articles to a specified destination for limited handling, utilization or processing or for treatment.

(k) *Mechanized cultivating equipment; and mechanized harvesting equipment.* Mechanized equipment used for soil tillage, including tillage attachments for farm tractors, e.g., tractors, disks, plows, harrows, planters, and subsoilers; mechanized equipment used for harvesting purposes, e.g., combines, potato conveyors, and harvesters and hay balers.

(l) *Mechanized soil-moving equipment.* Equipment used for moving or transporting soil, e.g., draglines, bulldozers, dump trucks, road scrapers, etc.

(m) *Moved (movement, move).* Shipped, deposited for transmission in the mail, otherwise offered for shipment, received for transportation, carried, or otherwise transported, or moved, or allowed to be moved, by mail or otherwise. "Movement" and "move" shall be construed in accordance with this definition.

(n) *Person.* Any individual, corporation, company, society, or association, or other organized group of any of the foregoing.

(o) *Plant Protection and Quarantine Programs.* The organizational unit within the Animal and Plant Health Inspection Service delegated responsibility for enforcing provisions of the Plant Quarantine Act and Federal Plant Pest Act, and regulations promulgated thereunder.

(p) *Regulated area.* Any quarantined State, or any portion thereof, listed as a regulated area in § 301–85–2a, or otherwise designated as a regulated area in accordance with § 301.85–2(b).

(q) *Regulated article.* Any articles as described in § 301.85(b).

(r) *Restricted destination permit.* A document issued or authorized to be issued by an inspector to allow the interstate movement of regulated articles not certifiable under all applicable Federal domestic plant quarantines to a specified destination for other than scientific purposes.

(s) *Scientific permit.* A document issued by the Deputy Administrator to allow the interstate movement to a specified destination of regulated articles for scientific purposes.

(t) *Soil.* That part of the upper layer of earth in which plants can grow.

(u) *State.* Any State, territory, or district of the United States, including Puerto Rico.

(v) *Suppressive area.* That portion of a regulated area where eradication of infestation is undertaken as an objective, as designated under § 301.85–2(a).

(w) *Treatment manual.* The provisions currently contained in the "Manual of Administratively Authorized Procedures to be Used Under the Golden Nematode Quarantine" and the "Fumigation Procedures Manual."[1]

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[1] Pamphlets containing such provisions are available upon request to the Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250, or from an inspector.

(Secs. 105 and 106, 71 Stat. 32, 33 (7 U.S.C. 150dd, 150ee); 37 FR 28464, 28477, as amended; 45 FR 8564, 8565; secs. 105 and 106, 71 Stat. 32, 33 (7 U.S.C. 150dd, 150ee); 7 CFR 2.17, 2.51, and 371.2)

[37 FR 24330, Nov. 16, 1972, as amended at 47 FR 12331, Mar. 23, 1982; 47 FR 33665, Aug. 4, 1982]

§ 301.85-2 Authorization to designate, and terminate designation of, regulated areas and suppressive or generally infested areas; and to exempt articles from certification, permit, or other requirements.

(a) *Regulated areas and suppressive or generally infested areas.* The Deputy Administrator shall list as regulated areas, in a supplemental regulation designated as § 301.85-2a, each quarantined State; or each portion thereof in which golden nematode has been found or in which there is reason to believe that golden nematode is present, or which it is deemed necessary to regulate because of their proximity to infestation or their inseparability for quarantine enforcement purposes from infested localities. The Deputy Administrator, in the supplemental regulation, may divide any regulated area into a suppressive area or a generally infested area in accordance with the definitions thereof in § 301.85-1. Less than an entire quarantined State will be designated as a regulated area only if the Deputy Administrator is of the opinion that:

(1) The State has adopted and is enforcing a quarantine or regulation which imposes restrictions on the intrastate movement of the regulated articles which are substantially the same as those which are imposed with respect to the interstate movement of such articles under this subpart; and

(2) The designation of less than the entire State as a regulated area will otherwise be adequate to prevent the interstate spread of the golden nematode.

(b) *Temporary designation of regulated areas and suppressive or generally infested areas.* The Deputy Administrator or an authorized inspector may temporarily designate any other premises in a quarantined State as a regulated area and a suppressive or generally infested area, in accordance with the criteria specified in paragraph (a) of this section for listing such area, by serving written notice thereof on the owner or person in possession of such premises, and thereafter the interstate movement of regulated articles from such premises by any person having notice of the designation shall be subject to the applicable provisions of this subpart. As soon as practicable, such premises shall be added to the list in § 301.85-2a if a basis then exists for their designation; otherwise the designation shall be terminated by the Deputy Administrator or an authorized inspector and notice thereof shall be given to the owner or person in possession of the premises.

(c) *Termination of designation as a regulated area and a suppressive or generally infested area.* The Deputy Administrator shall terminate the designation provided for under paragraph (a) of this section of any area listed as a regulated area and suppressive or generally infested area when he determines that such designation is no longer required under the criteria specified in paragraph (a) of this section.

(d) *Exemption of articles from certification, permit, or other requirements.* The Deputy Administrator may, in a supplemental regulation designated as § 301.85-2b, list regulated articles or movements of regulated articles which shall be exempt from the certification, permit, or other requirements of this subpart under such conditions as he may prescribe, if he finds that facts exist as to the pest risk involved in the movement of such regulated articles which make it safe to so relieve such requirements.

§ 301.85-2a Regulated areas; suppressive and generally infested areas.

The civil divisions and parts of civil divisions described below are designated as golden nematode regulated areas within the meaning of the provisions of this subpart; and such regulated areas are hereby divided into generally infested areas or suppressive areas as indicated below:

NEW YORK

(1) *Generally infested area:*

Cayuga County. The town of Montezuma.

Genesee County. The towns of Elba and Byron.

Livingston County. The towns of Avon, Caledonia, Geneseo, Groveland, Leicester, Lima, Livonia, Mount Morris, West Sparta, and York.

Nassau County. The entire county.

Orleans County. The towns of Barre and Clarendon.

Seneca County. The town of Tyre.

Steuben County. The towns of Prattsburg and Wheeler; that area known as "Arkport Muck" located in the town of Dansville and bounded by a line beginning at a point where the Conrail right-of-way (Erie Lackawanna Rail Road) intersects County Road 52 (known as Burns Road), then north and northeast along County Road 52 to its junction with New York Route 36, then south and southeast along New York Route 36 to its intersection with the Dansville Town line, then west along the Dansville Town line to its intersection with the Conrail right-of-way (Erie Lackawanna Rail Road), then north and northwest along the Conrail right-of-way to the point of beginning; and the Werth, Dale, farm, known as the "Werthwhile Farm," located in the town of Cohocton on the north side of County Road 5 (known as Brown Hill Road), and 0.2 mile west of the junction of County Road 5 with County Road 58 (known as Wager Road).

Suffolk County. The entire county.

Wayne County. The town of Savannah.

(2) *Suppressive area:*

Yates County. The town of Italy.

(Secs. 105, 106, 71 Stat. 32, 33 (7 U.S.C. 150dd, 150ee); 37 FR 28464, 28477, as amended ; 45 FR 8564, 8565; secs. 105 and 106, 71 Stat. 32, 33 (7 U.S.C. 150dd, 150ee); 7 CFR 2.17, 2.51, and 371.2)

[42 FR 16613, Mar. 29, 1977, as amended at 47 FR 12331, Mar. 23 1982; 47 FR 13116, Mar. 29, 1982; 50 FR 13179, Apr. 3, 1985; 50 FR 25906, June 24, 1985]

§ 301.85–2b Exempted articles.[2]

(a) The following articles are exempt from the certification and permit requirements of this subpart if they meet the applicable conditions prescribed in paragraphs (a) (1) through (4) of this section and have not been exposed to infestation after cleaning or other handling as prescribed in said paragraphs:

(1) Small grains, if harvested in bulk or directly into approved containers, and if the small grains and containers thereof have not come into contact with the soil; or, if they have been cleaned to meet State seed sales requirements.

(2) Soybeans (other than for seed), if harvested in bulk or directly into approved containers, and if the soybeans and containers thereof have not come into contact with the soil.

(3) Unshucked ear corn, if harvested in bulk or directly into approved containers, and if the corn and containers thereof have not come into contact with the soil.

(4) Used farm tools, if cleaned free of soil.

(b) The following articles are exempt from the certification and permit requirements of this subpart if they meet the applicable conditions prescribed in paragraphs (b) (1) through (3) of this section and have not been exposed to infestation after cleaning or other handling as prescribed in said paragraphs: *Provided,* That this exemption shall not apply to any class of regulated articles specified by an inspector in a written notification to the owner or person in possession of the premises that the movement of such articles from such premises under this exemption would involve a hazard of spread of the golden nematode:

(1) Root crops (other than Irish potatoes and sugar beets), if moved in approved containers.

(2) Hay, straw, fodder, and plant litter, if moved in approved containers.

(c) Containers of the following types are approved for the purposes of this section:

(1) New paper bags; and consumer packages of any material except cloth or burlap.

(2) Crates, pallet boxes, trucks, and boxcars, if free of soil.

(Secs. 105, 106, 71 Stat. 32, 33 (7 U.S.C. 150dd, 150ee); 37 FR 28464, 28477, as amended ; 45 FR 8564, 8565; secs. 105 and 106, 71 Stat. 32, 33 (7 U.S.C. 150dd, 150ee); 7 CFR 2.17, 2.51, and 371.2)

[35 FR 4692, Mar. 18, 1970, as amended at 47 FR 12331, Mar. 23, 1982; 47 FR 33665, Aug. 4, 1982]

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[2] The articles hereby exempted remain subject to applicable restrictions under other quarantines and other provisions of this subpart.

§ 301.85-3 Conditions governing the interstate movement of regulated articles from quarantined States.[3]

(a) Any regulated articles except soil samples for processing, testing, or analysis may be moved interstate from any quarantined State under the following conditions:

(1) With certificate or permit issued and attached in accordance with §§ 301.85-4 and 301.85-7 if moved:

(i) From any generally infested area or any suppressive area into or through any point outside of the regulated areas; or

(ii) From any generally infested area into or through any suppressive area; or

(iii) Between any noncontiguous suppressive areas; or

(iv) Between contiguous suppressive areas when it is determined by an inspector that the regulated articles present a hazard of the spread of the golden nematode and the person in possession thereof has been so notified; or

(v) Through or reshipped from any regulated area when such movement is not authorized under paragraph (a)(2)(v) of this section; or

(2) From any regulated area, without certificate or permit if moved:

(i) Under the provisions of § 301.85-2b which exempts certain articles from certificate and permit requirements; or

(ii) From a generally infested area to a contiguous generally infested area; or

(iii) From a suppressive area to a contiguous generally infested area; or

(iv) Between contiguous suppressive areas unless the person in possession of the articles has been notified by an inspector that a hazard of spread of the golden nematode exists; or

(v) Through or reshipped from any regulated area if the articles originated outside of any regulated area and if the point of origin of the articles is clearly indicated, their identity has been maintained, and they have been safeguarded against infestation while in the regulated area in a manner satisfactory to the inspector; or

(3) From any area outside the regulated areas, if moved:

(i) With a certificate or permit attached; or

(ii) Without a certificate or permit, if:

(*a*) The regulated articles are exempt from certification and permit requirements under the provisions of § 301.85-2b; or

(*b*) The point of origin of such movement is clearly indicated on the articles or shipping document which accompanies the articles and if the movement is not made through any regulated area.

(b) Unless specifically authorized by the Deputy Administrator in emergency situations, soil samples for processing, testing or analysis may be moved interstate from any regulated area only to laboratories approved[4] by the Deputy Administrator and so listed by him in a supplemental regulation.[5] A certificate or permit is not required to be attached to such soil samples except in those situations where the Deputy Administrator has authorized such movement only with a certificate or permit issued and attached in accordance with §§ 301.85-4 and 301.85-7. A certificate or permit is not required to be attached to soil samples originating in areas outside of the regulated areas if the point of origin of such movement is clearly indicated on the articles or shipping document which accompanies the articles and if the movement is not made through any regulated area.

§ 301.85-4 Issuance and cancellation of certificates and permits.

(a) Certificates may be issued for any regulated articles (except soil samples for processing, testing, or analysis) by an inspector if he determines that they are eligible for certification for movement to any destination under all Federal domestic plant quarantines applicable to such articles and:

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[3] Requirements under all other applicable Federal domestic plant quarantines must also be met.

[4] Pamphlets containing provisions for laboratory approval may be obtained from the Deputy Administrator, Plant Protection and Quarantine Programs, APHIS, U.S. Department of Agriculture, Washington, D.C. 20250.

[5] For list of approved laboratories, see PP 639 (37 FR 7813, 15525, and amendments thereof).

(1) Have originated in noninfested premises in a regulated area and have not been exposed to infestation while within the regulated areas; or

(2) Have been treated to destroy infestation in accordance with the treatment manual; or

(3) Have been grown, produced, manufactured, stored, or handled in such a manner that no infestation would be transmitted thereby.

(b) Limited permits may be issued by an inspector to allow interstate movement of regulated articles (except soil samples for processing, testing or analysis) not eligible for certification under this subpart, to specified destinations for limited handling, utilization, or processing, or for treatment in accordance with the treatment manual, when, upon evaluation of the circumstances involved in each specific case he determines that such movement will not result in the spread of the golden nematode and requirements of other applicable Federal domestic plant quarantines have been met.

(c) Restricted destination permits may be issued by an inspector to allow the interstate movement (for other than scientific purposes) of regulated articles (except soil samples for processing, testing, or analysis) to any destination permitted under all applicable Federal domestic plant quarantines if such articles are not eligible for certification under all such quarantines but would otherwise qualify for certification under this subpart.

(d) Scientific permits to allow the interstate movement of regulated articles and certificates or permits to allow the movement of soil samples for processing, testing, or analysis in emergency situations may be issued by the Deputy Administrator under such conditions as may be prescribed in each specific case by the Deputy Administrator to prevent the spread of the golden nematode.

(e) Certificate, limited permit, and restricted destination permit forms may be issued by an inspector to any person for use for subsequent shipments of regulated articles (except for soil samples for processing, testing, or analysis) provided such person is operating under a compliance agreement; and any such person may be authorized by an inspector to reproduce such forms on shipping containers or otherwise. Any such person may execute and issue the certificate forms, or reproductions of such forms, for the interstate movement of regulated articles from the premises of such person identified in the compliance agreement if such person has treated such regulated articles to destroy infestation in accordance with the treatment manual, and if such regulated articles are eligible for certification for movement to any destination under all Federal domestic plant quarantines applicable to such articles. Any such person may execute and issue the limited permit forms, or reproductions of such forms, for interstate movement of regulated articles to specified destinations when the inspector has made the determinations specified in paragraph (b) of this section. Any such person may execute and issue the restricted destination permit forms, or reproductions of such forms, for the interstate movement of regulated articles not eligible for certification under all Federal domestic plant quarantines applicable to such articles, under the conditions specified in paragraph (c) of this section.

(f) Any certificate or permit which has been issued or authorized may be withdrawn by the inspector or the Deputy Administrator if he determines that the holder thereof has not complied with any condition for the use of such document imposed by this subpart. Prior to such withdrawal, the holder of the certificate of permit shall be notified of the proposed action and the reason therefor and afforded reasonable opportunity to present his views thereon.

§ 301.85-5 Compliance agreement and cancellation thereof.

(a) Any person engaged in the business of growing, handling, or moving regulated articles may enter into a compliance agreement to facilitate the movement of such articles under this subpart. Compliance agreement forms may be obtained from the Deputy Administrator or an inspector.

(b) Any person engaged in the business of removing soil from Irish potatoes by the process of grading, washing, or fluming may enter into a compliance agreement concerning such operations. The compliance agreement shall be a written agreement between the person conducting such operations and Plant Protection and Quarantine wherein such person agrees to conduct such operations in a manner which, in the judgment of the inspector supervising enforcement of the quarantine and regulations, will substantially remove the soil from the potatoes.

(c) Any compliance agreement may be canceled by the inspector who is supervising its enforcement whenever he finds, after notice and reasonable opportunity to present views has been accorded to the other party thereto, that such other party has failed to comply with the conditions of the agreement.

(Secs. 105, 106, 71 Stat. 32, 33 (7 U.S.C. 150dd, 150ee); 37 FR 28464, 28477, as amended; 45 FR 8564, 8565)

[37 FR 24330, Nov. 16, 1972, as amended at 47 FR 12332, Mar. 23, 1982; 47 FR 33665, Aug. 4, 1982]

§ 301.85-6 Assembly and inspection of regulated articles.

Persons (other than those authorized to use certificates, limited permits, or restricted destination permits, or reproductions thereof, under § 301.85-4(e)) who desire to move interstate regulated articles which must be accompanied by a certificate or permit shall, as far in advance as possible, request an inspector to examine the articles prior to movement. Such articles shall be assembled at such points and in such manner as the inspector designates to facilitate inspection.

§ 301.85-7 Attachment and disposition of certificates and permits.

(a) If a certificate or permit is required for the interstate movement of regulated articles, the certificate or permit shall be securely attached to the outside of the container in which such articles are moved, except that, where the certificate or permit is attached to the waybill or other shipping document, and the regulated articles are adequately described on the certificate, permit, or shipping document, the attachment of the certificate or permit to each container of the articles is not required.

(b) In all cases, certificates or permits shall be furnished by the carrier to the consignee at the destination of the shipment.

§ 301.85-8 Inspection and disposal of regulated articles and pests.

Any properly identified inspector is authorized to stop and inspect, and to seize, destroy, or otherwise dispose of, or require disposal of regulated articles and golden nematodes as provided in section 10 of the Plant Quarantine Act (7 U.S.C. 164a) and section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd) in accordance with instructions issued by the Deputy Administrator.

§ 301.85-9 Movement of live golden nematodes.

Regulations requiring a permit for and otherwise governing the movement of live golden nematodes in interstate or foreign commerce are contained in the Federal Plant Pest Regulations in Part 330 of this chapter. Applications for permits for the movement of the pest may be made to the Deputy Administrator.

§ 301.85-10 Nonliability of the Department.

The U.S. Department of Agriculture disclaims liability for any costs incident to inspections or compliance with the provisions of the Quarantine and regulations in this subpart, other than for the services of the inspector.

Subpart—Sugarcane Diseases

AUTHORITY: Secs. 8, 9, 37 Stat. 318, as amended, secs. 105 and 106, 71 Stat. 32 and 33 (7 U.S.C. 161, 162, 150dd, 150ee); 7 CFR 2.17, 2.51, and 371.2.

SOURCE: 48 FR 50059, Oct. 31, 1983, unless otherwise noted.

QUARANTINE REGULATIONS

§ 301.87 Quarantine; restrictions on interstate movement of specified articles.[1, 2]

(a) *Notice of quarantine.* Pursuant to sections 8 and 9 of the Plant Quarantine Act of August 20, 1912, as amended, and sections 105 and 106 of the Federal Plant Pest Act (7 U.S.C. 161, 162, 150dd, 150ee), the Secretary of Agriculture hereby quarantines Hawaii in order to prevent the artificial spread of leaf scald disease and quarantines Puerto Rico in order to prevent the artifical spread of gummosis disease and leaf scald disease; and hereby establishes regulations governing the interstate movement from Hawaii and Puerto Rico of regulated articles described in § 301.87-2 of this subpart.

(b) *Quarantine restrictions on interstate movement of regulated articles.* No common carrier or other person shall move interstate from any regulated area any regulated article except in accordance with the conditions prescribed in this subpart.

§ 301.87-1 Definitions.

Terms used in the singular form in this subpart shall be construed as the plural and vice versa, as the case may demand. The following terms, when used in this subpart, shall be construed, respectively, to mean:

Certificate. A document which is issued for a regulated article by an inspector or by a person operating under a compliance agreement, and which represents that the article is eligible for interstate movement in accordance with § 301.87-5(a) of this subpart.

Compliance agreement. A written agreement between Plant Protection and Quarantine and a person engaged in the business of growing, handling, or moving regulated articles, in which the person agrees to comply with the provisions of this subpart and any conditions imposed pursuant to such provisions.

Deputy Administrator. The Deputy Administrator of the Animal and Plant Health Inspection Service, U.S. Department of Agriculture for Plant Protection and Quarantine, or any officer or employee of the Department to whom authority to act in his or her stead has been or may hereafter be delegated.

Gummosis disease. A dangerous plant disease of sugarcane which is caused by the highly infectious bacterium, *Xanthomonas vasculorum* (Cobb) Dowson, and which is not widely prevalent or distributed within and throughout the United States.

Inspector. Any employee of Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or other person, authorized by the Deputy Administrator in accordance with law to enforce the provisions of the quarantine and regulations in this subpart.

Interstate. From any State into or through any other State.

Leaf scald disease. A dangerous plant disease of sugarcane which is caused by the highly infectious bacterium, *Xanthomonas albilineans* (Ashby) Dowson, and which is not widely prevalent or distributed within and throughout the United States.

Limited permit. A document which is issued for a regulated article by an inspector or by a person operating under a compliance agreement, and which represents that the regulated article is eligible for interstate movement in accordance with § 301.87-5(b) of this subpart.

Moved (movement, move). Shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or caused or allowed to be moved by any means. "Movement" and "move" shall be construed in accordance with this definition.

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[1] Any propertly identified inspector is authorized to stop and inspect persons and means of conveyance, and to seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of regulated articles as provided in section 10 of the Plant Quarantine Act (7 U.S.C. 164a) and section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd).

[2] Regulations concerning the movement of gummosis bacteria and leaf scald bacteria in interstate or foreign commerce are contained in Part 330 of this chapter.

Person. Any individual, partnership, corporation, company, society, association, or other organized group.

Plant Protection and Quarantine. The organizational unit within the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, delegated responsibility for enforcing provisions of the Plant Quarantine Act, the Federal Plant Pest Act, and related legislation, and quarantines and regulations promulgated under these laws.

Regulated area. Any quarantined State, or any portion thereof, listed as a regulated area in § 301.87-3(c) of this subpart, or otherwise designated as a regulated area in accordance with § 301.87-3(b) of this subpart.

Regulated article. Any article listed in § 301.87-2(a), (b), or (c) or otherwise designated as a regulated article in accordance with § 301.87-2(d).

State. Any State, Territory, or District of the United States, including the Commonwealth of Puerto Rico.

Sugarcane disease. This means leaf scald disease with respect to activities in Hawaii, and means gummosis disease or leaf scald disease with respect to activities in Puerto Rico.

§ 301.87-2 Regulated articles.

(a) Sugarcane plants, whole or in part, including true seed and bagasse, but not including pieces of cane boiled for a minimum of 30 minutes during processing into sugarcane chews;

(b) Used sugarcane processing equipment (sugarcane mill equipment, such as equipment used for extracting and refining sugarcane juice; and experimental devices, such as devices used for extracting sugarcane juice);

(c) Used sugarcane field equipment (equipment used for sugarcane field production purposes, e.g. planters, tractors, discs, cultivators, and vehicles); and

(d) Any other product, article, or means of conveyance, of any character whatsoever, not covered by paragraph (a), (b), or (c) of this section, when it is determined by an inspector that it presents a risk of spread of a sugarcane disease and the person in possession of it has actual notice that the product, article, or means of conveyance is subject to the restrictions of this section.

§ 301.87-3 Regulated areas.

(a) Except as otherwise provided in paragraph (b) of this section, the Deputy Administrator shall list as a regulated area in paragraph (c) of this section, each quarantined State, or each portion thereof, in which a sugarcane disease has been found by an inspector or in which the Deputy Administrator has reason to believe that a sugarcane disease is present, or each portion of a quarantined State which the Deputy Administrator deems necessary to regulate because of its proximity to a sugarcane disease or its inseparability for quarantine enforcement purposes from localities in which a sugarcane disease occurs. Less than an entire quarantined State will be designated as a regulated area only if the Deputy Administrator is of the opinion that:

(1) The State has adopted and is enforcing a quarantine or regulation which imposes restrictions on the intrastate movement of the regulated articles which are substantially the same as those which are imposed with respect to the interstate movement of such articles under this subpart; and

(2) The designation of less than the entire State as a regulated area will otherwise be adequate to prevent the artificial interstate spread of a sugarcane disease.

(b) The Deputy Administrator or an inspector may temporarily designate any nonregulated area in a quarantined State as a regulated area in accordance with the criteria specified in paragraph (a) of this section for listing such an area. Written notice of the designation shall be given to the owner or person in possession of the nonregulated area and, thereafter, the interstate movement of any regulated article from the area shall be subject to the applicable provisions of this subpart. As soon as practicable, the area shall be added to the list in paragraph (c) of this section or the designation shall be terminated by the Deputy Administrator or an inspector, and notice thereof shall be given to the owner or person in possession of the area.

(c) The areas described below are designated as regulated areas;

Hawaii

All of Hawaii.

Puerto Rico.

All of Puerto Rico.

§ 301.87-4 Conditions governing the interstate movement of regulated articles from regulated areas in quarantined States.[3]

Any regulated article may be moved interstate from any regulated area in a quarantined State if moved under the following conditions:

(a) With a certificate or limited permit issued and attached in accordance with §§ 301.87-5 and 301.87-8 of this subpart, or

(b) Without a certificate or limited permit, if

(1) Moved directly through any regulated area, and

(2) The article originated outside of any regulated area, and

(3) The point of origin of the article is clearly indicated by shipping documents, its identity has been maintained, and it has not been used for the production of sugarcane while in the regulated area.

§ 301.87-5 Issuance and cancellation of certificates and limited permits.

(a) A certificate shall be issued by an inspector for the movement of a regulated article if the inspector:

(1)(i) Determines that it has been treated under the direction of an inspector[4] in accordance with § 301.87-10 of this subpart, or

(ii) Determines based on inspection of the article and the premises of origin that it is free from sugarcane diseases;[5]

(2) Determines that it is to be moved in compliance with any additional emergency conditions necessary to prevent the spread of sugarcane diseases pursuant to section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd);[6] and

(3) Determines that it is eligible for unrestricted movement under all other Federal domestic plant quarantines applicable to the article.

(b) A limited permit shall be issued by an inspector for the movement of a regulated article if the inspector:

(1) Determines, in consultation with the Deputy Administrator, that it is to be moved:

(i) For a specified purpose (such as for consumption or manufacturing) stated on the limited permit, other than for processing or harvesting sugarcane; and

(ii) To a specified destination stated on the limited permit, which is not in a county or parish where sugarcane is produced, and which is not within 10 miles of a sugarcane field;

(2) Determines that it is to be moved in compliance with any additional emergency conditions necessary to prevent the spread of sugarcane diseases pursuant to section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd);[6] and

(3) Determines that it is eligible for such movement under all other Federal domestic plant quarantines applicable to the article.

(c) Certificates and limited permits for shipments of regulated articles may be issued by an inspector or by any person engaged in the business of growing, handling, or moving regulated articles provided such person is operating under a compliance agreement. Any such person may execute and issue a certificate for the interstate movement of a regulated article if the person has treated the regulated article to destroy infection in accordance with the provisions of § 301.87-10 of this subpart and the inspector has made the determination that the article is otherwise eligible for a certificate in accordance with paragraph (a) of this section; or if the inspector has made the determination that the article is eligible for a certificate in accordance with paragraph (a) of this section without such treatment. Any such person may execute and issue a limited permit for interstate movement of a regulated article when the inspector has made the determination that the article is eligible for a limited permit in accordance with paragraph (b) of this section.

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[3] Requirements under all other applicable Federal domestic plant quarantines must also be met.

[4] Treatments shall be monitored by inspectors in order to assure compliance with requirements in this subpart.

[5] The term sugarcane diseases means leaf scald disease with respect to movement of regulated articles from Hawaii and means gummosis disease and leaf scald disease with respect to movements of regulated articles from Puerto Rico.

[6] Section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd) provides, among other things, that the Secretary of Agriculture may, whenever he deems it necessary as an emergency measure in order to prevent the dissemination of any plant pest new to or not theretofore known to be widely prevalent or distributed within and throughout the United States, seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of, in such manner as he deems appropriate, any product or article of any character whatsoever, or means of conveyance, which is moving into or through the United States or interstate, and which he has reason to believe is infested or infected by or contains any such plant pest.

(d) Any certificate or limited permit which has been issued or authorized may be withdrawn by an inspector if the inspector determines that its holder has not complied with any condition under the regulations for its use. The reasons for the withdrawal shall be confirmed in writing as promptly as circumstances allow. Any person whose certificate or limited permit has been withdrawn may appeal the decision in writing to the Deputy Administrator within ten days after receiving the written notification of the withdrawal. The appeal shall state all of the facts and reasons upon which the person relies to show that the certificate or limited permit was wrongfully withdrawn. The Deputy Administrator shall grant or deny the appeal in writing, stating the reasons for the decision as promptly as circumstances allow. If there is a conflict as to any material fact, a hearing shall be held to resolve the conflict under rules of practice which shall be adopted by the Administrator of the Animal and Plant Health Inspection Service, USDA, for the proceeding.

§ 301.87-6 Compliance agreement; cancellation.

(a) Any person engaged in the business of growing, handling, or moving regulated articles may enter into a compliance agreement to facilitate the movement of regulated articles under this subpart.[7] The compliance agreement shall be a written agreement between a person engaged in such a business and Plant Protection and Quarantine, in which the person agrees to comply with the provisions of this subpart and any conditions imposed pursuant to such provisions.

(b) Any compliance agreement may be canceled orally or in writing by the inspector who is supervising its enforcement whenever the inspector finds that such person has failed to comply with the provisions of this subpart or any conditions imposed pursuant to such provisions. If the cancellation is oral, the decision and the reasons for the cancellation shall be confirmed in writing as promptly as circumstances allow. Any person whose compliance agreement has been canceled may appeal the decision, in writing, to the Deputy Administrator within ten days after receiving written notification of the cancellation. The appeal shall state all of the facts and reasons upon which the person relies to show that the compliance agreement was wrongfully cancelled. The Deputy Administrator shall grant or deny the appeal, in writing, stating the reasons for the decision, as promptly as circumstances allow. If there is a conflict as to any material fact, a hearing shall be held to resolve the conflict under rules of practice which shall be adopted by the Administrator of the Animal and Plant Health Inspection Service, USDA, for the proceeding.

§ 301.87-7 Assembly and inspection of regulated articles.

(a) Any person (other than a person authorized to issue certificates or limited permits under § 301.87-5(c) of this subpart) who desires to move interstate a regulated article accompanied by a certificate or limited permit shall, as far in advance as possible (should be no less than 48 hours before the desired movement), request an inspector[8] to take any necessary action under this subpart prior to movement of the regulated article.

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[7] Compliance Agreement forms are available without charge from the Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, Federal Building, Hyattsville, MD 20782, and from local offices of Plant Protection and Quarantine. (Local offices are listed in telephone directories.)

(b) The regulated article shall be assembled at whatever point and in whatever manner the inspector designates as necessary to comply with the requirements of this subpart.

§ 301.87-8 Attachment and disposition of certificates and limited permits.

(a) A certificate or limited permit required for the interstate movement of a regulated article, at all times during such movement, shall be securely attached to the outside of the container containing the regulated article, securely attached to the article itself if not in a container, or securely attached to the consignee's copy of the accompanying waybill or other shipping document; provided however, that the requirements of this section may be met by attaching the certificate or limited permit to the consignee's copy of the waybill or other shipping document only if the regulated article is sufficiently described on the certificate, limited permit, or shipping document to identify the article.

(b) The certificate or limited permit for the movement of a regulated article shall be furnished by the carrier to the consignee at the destination of the shipment.

§ 301.87-9 Costs and charges.

The services of the inspector shall be furnished without cost. The U.S. Department of Agriculture will not be responsible for any costs or charges incident to inspections or compliance with the provisions of the quarantine and regulations in this subpart, other than for the services of the inspector.

§ 301.87-10 Treatments.

Treatment for regulated articles shall be as follows:

(a) Seedpieces (pieces of sugarcane, sets) or canes of sugarcane: Presoak for 24 hours in water at room temperature and then immerse in water at 50° C (122° F) for 3 hours.

NOTE: Some seedpieces or canes of sugarcane which have germinated may be damaged by this procedure.

(b) True seed (fuzz): Immerse in 0.525 percent sodium hypochlorite solution for 30 minutes (solution shall contain 1 part of solution containing 5.25 percent sodium hypochlorite with 9 parts water by volume). Air dry at least 8 hours before packaging.

(c) Bagasse: Subject to dry heat at 70° C (158° F) for 2 hours.

(d) Sugarcane harvesting and processing equipment: Remove all debris and soil from the equipment with water at high pressure (at least 300 pounds per square inch) or with steam.

Subpart—Corn Cyst Nematode

AUTHORITY: Secs. 8 and 9, 37 Stat. 318, as amended (7 U.S.C. 161, 162); secs. 105 and 106, 71 Stat. 32, 71 Stat. 33 (7 U.S.C. 150dd, 150ee); 37 FR 28464, 28477, as amended; 45 FR 8564, 8565.

SOURCE: 49 FR 18465, May 1, 1984 (Interim); 49 FR 36815, Sept. 20, 1984 (Final), unless otherwise noted.

QUARANTINE AND REGULATIONS

§ 301.90 Quarantine and regulations; restrictions on interstate movement of regulated articles.[1, 2]

(a) *Quarantines and regulations.* The Secretary of Agriculture hereby quarantines the State of Maryland in order to prevent the artificial spread of the corn cyst nematode (*Heterodera zeae*), a dangerous plant pest not heretofore widely prevalent or distributed within and throughout the United States; and hereby establishes regulations governing the interstate movement of regulated articles specified in § 301.90-2.

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[8] Inspectors are assigned to local offices of Plant Protection and Quarantine, which are listed in telephone directories. Information concerning local offices may also be obtained from the Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, Federal Building, Hyattsville, MD 20782.

[1] Any properly identified inspector is authorized to stop and inspect persons and means of conveyance, and to seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of regulated articles as provided in section 10 of the Plant Quarantine Act (7 U.S.C. 164a) and sections 105 and 107 of the Federal Plant Pest Act (7 U.S.C. 150dd, 150ff).

[2] Regulations concerning the movement of corn cyst nematode in interstate or foreign commerce are contained in Part 330 of this chapter.

(b) *Restrictions on interstate movement of regulated articles.* No common carrier or other person shall move interstate from any regulated area any regulated article except in accordance with the conditions prescribed in this subpart.

§ 301.90-1 Definitions.

Terms used in the singular form in this subpart shall be construed as the plural and vice versa, as the case may demand. The following terms, when used in this subpart, shall be construed, respectively, to mean:

(a) *Certificate.* A document which is issued for a regulated article by an inspector or by a person operating under a compliance agreement, and which represents that such article is eligible for interstate movement in accordance with § 301.90-5(a).

(b) *Compliance agreement.* A written agreement between Plant Protection and Quarantine and a person engaged in the business of growing, handling, or moving regulated articles, wherein the person agrees to comply with the provisions of this subpart and any conditions imposed pursuant thereto.

(c) *Deputy Administrator.* The Deputy Administrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine, or any officer or employee of the Department to whom authority to act in his/her stead has been or may hereafter be delegated.

(d) *Inspector.* Any employee of Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or other person, authorized by the Deputy Administrator in accordance with law to enforce the provisions of the quarantine and regulations in this subpart.

(e) *Interstate.* From any State into or through any other State.

(f) *Limited permit.* A document which is issued for a regulated article by an inspector or by a person operating under a compliance agreement, and which represents that such regulated article is eligible for interstate movement in accordance with § 301.90-5(b).

(g) *Moved (movement, move).* Shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, allowed to be moved or caused to be moved by any means. "Movement" and "move" shall be construed in accordance with this definition.

(h) *Person.* Any individual, partnership, corporation, company, society, association, or other organized group.

(i) *Plant protection and quarantine.* The organizational unit within the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, delegated responsibility for enforcing provisions of the Plant Quarantine Act, the Federal Plant Pest Act and related legislation, and quarantines and regulations promulgated thereunder.

(j) *Regulated area.* Any State, or any portion thereof, listed in § 301.90-3(c) or otherwise designated as a regulated area in accordance with § 301.90-3(b).

(k) *Regulated article.* Any article listed in § 301.90-2 or otherwise designated as a regulated article in accordance with § 301.90-2.

(l) *State.* Each of the several States, the District of Columbia, Guam, the Northern Mariana Islands, Puerto Rico, the Virgin Islands of the United States, and any other Territories or Possessions of the United States.

§ 301.90-2 Regulated articles.

The following articles are designated as regulated articles:

(a) Soil (except soil samples for processing, testing, or analysis in accordance with 7 CFR Part 301), compost, humus, and muck, separately or with other things (such as attached to equipment);

(b) Plants with roots with soil attached, except houseplants grown in a residence and not for sale;

(c) Grass sod;

(d) Root crops with soil attached;

(e) Mechanized farm equipment which has been used for soil tillage or harvesting (e.g., tractors, combines, plows, disks, planters and cultivators);

(f) Custom farm equipment which has been used for soil treatment (e.g., lime and fertilizer trucks, tenders and nurse tanks);

(g) Mechanized soil-moving equipment which has been used to move or transport soil (e.g., dragliners, bulldozers, road scrapers, rototillers and dump trucks); and

(h) Any other product, article, or means of conveyance, of any character whatsoever, not covered above when it is determined by an inspector that it presents a risk of spread of corn cyst nematode and the person in possession thereof has actual notice that the product, article, or means of conveyance is subject to the restrictions in the quarantine and regulations.

§ 301.90-3 Regulated areas.

(a) Except as otherwise provided in paragraph (b) of this section, the Deputy Administrator shall list as a regulated area in paragraph (c) of this section, each quarantined State, or each portion thereof, in which the corn cyst nematode has been found by an inspector or in which the Deputy Administrator has reason to believe that the corn cyst nematode is present, or each portion of a quarantined State which the Deputy Administrator deems necessary to regulate because of its proximity to the corn cyst nematode or its inseparability for quarantine enforcement purposes from localities in which the corn cyst nematode occurs. Less than an entire quarantined State will be designated as a regulated area only if the Deputy Administrator determines that:

(1) The State has adopted and is enforcing a quarantine or regulation which imposes restrictions on the intrastate movement of the regulated articles which are substantially the same as those which are imposed with respect to the interstate movement of such articles under this pubpart; and

(2) The designation of less than the entire State as a regulated area will otherwise be adequate to prevent the artificial interstate spread of the corn cyst nematode.

(b) The Deputy Administrator or an inspector may temporarily designate any nonregulated area in a quarantined State as a regulated area in accordance with the criteria specified in paragraph (a) of this section for listing such area. Written notice of such designation shall be given to the owner or person in possession of such nonregulated area and, thereafter, the interstate movement of any regulated articles from such area shall be subject to the applicable provisions of this subpart. As soon as practicable, such area shall be added to the list in paragraph (c) of this section or such designation shall be terminated by the Deputy Administrator or an inspector, and notice thereof shall be given to the owner or person in possession of the area.

(c) The areas described below are designated as regulated areas:

MARYLAND

Cecil County. That portion of the county south of U.S. Highway 1 and the Maryland-Pennsylvania State line, and west of the Maryland-Delaware State line and U.S. Highway 301.

Harford County. That portion of the county southeast of U.S. Highway 1.

Kent County. That portion of the county west of U.S. Highway 301.

Queen Annes County. That portion of the county bounded by a line beginning at a point where U.S. Highway 301 intersects the Chester River, then southwesterly along said highway to its intersection with State Highway 304, then northwesterly along said highway to its intersection with the Chester River, then northeasterly along said river to U.S. Highway 301 (the point of beginning).

§ 301.90-4 Conditions governing the interstate movement of regulated articles from regulated areas in quarantined States.[3]

Any regulated article may be moved interstate from any regulated area in a quarantined State only if moved under the following conditions:

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[3] Requirements under all other applicable Federal domestic plant quarantines and regulations must also be met.

(a) With a certificate or limited permit issued and attached in accordance with §§ 301.90-5 and 301.90-8;

(b) Without a certificate or limited permit, if (1) The article originated outside of any regulated areas, and (2) The point of origin of the article is clearly indicated by shipping documents and its identity has been maintained.

§ 301.90-5 Issuance and cancellation of certificates and limited permits.

(a) A certificate shall be issued by an inspector for the movement of a regulated article if such inspector:

(1)(i) Determines that it has been treated under the direction of an inspector[4] in accordance with § 301.90-10; or (ii) Determines based on inspection of the premises of origin that it is free from the corn cyst nematode; or (iii) Determines that it has been grown, processed, stored or handled in such a manner that the regulated article is free of corn cyst nematode; and

(2) Determines that it is to be moved in compliance with any additional emergency conditions necessary to prevent the spread of the corn cyst nematode pursuant to section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd);[5] and

(3) Determines that it is eligible for unrestricted movement under all other Federal domestic plant quarantines and regulations applicable to such article.

(b) A limited permit shall be issued by an inspector for the movement of a regulated article if such inspector:

(1) Determines, in consultation with the Deputy Administrator, that it is to be moved to a specified destination for specified handling, utilization, processing, or for treatment in accordance with § 301.90-10 (such destination and other conditions to be specified on the limited permit), when, upon evaluation of all of the circumstances involved in each case, it is determined that such movement will not result in the spread of the corn cyst nematode because life stages of the pest will be destroyed by such specified handling, utilization, processing, or treatment;

(2) Determines that it is to be moved in compliance with any additional emergency conditions necessary to prevent the spread of the corn cyst nematode pursuant to section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd);[5] and

(3) Determines that it is eligible for such movement under all other Federal domestic plant quarantines and regulations applicable to such article.

(c) Certificates and limited permits for use for shipments of regulated articles may be issued by an inspector or person engaged in the business of growing, handling, or moving regulated articles provided such person is operating under a compliance agreement. Any such person may execute and issue a certificate for the interstate movement of a regulated article if such person has treated such regulated article to destroy infestation in accordance with the provisions in § 301.90-10 and the inspector has made the determination that such article is otherwise eligible for a certificate in accordance with paragraph (a) of this section; or if the inspector has made the determination that such article is eligible for a certificate in accordance with paragraph (a) of this section without such treatment. Any such person may execute and issue a limited permit for interstate movement of a regulated article when the inspector has made the determination that such article is eligible for a limited permit in accordance with paragraph (b) of this section.

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[4] Treatments shall be monitored by inspectors in order to assure compliance with the requirements in this subpart.

[5] Section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd) provides, among other things, that the Secretary of Agriculture may whenever he deems it necessary as an emergency measure in order to prevent the dissemination of any plant pest new to or not theretofore known to be widely prevalent or distributed within and throughout the United States seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of, in such manner as he deems appropriate, any product or article of any character whatsoever, or means or conveyance, which is moving into or through the United States or interstate, and which he has reason to believe is infested or infected by or contains any such plant pest.

(d) Any certificate or limited permit which has been issued or authorized may be withdrawn by an inspector if such inspector determines that the holder thereof has not complied with all of the conditions under the regulations for the use of such document. The reasons for the withdrawal shall be confirmed in writing as promptly as circumstances permit. Any person whose certificate or limited permit has been withdrawn may appeal the decision in writing to the Deputy Administrator within ten (10) days after receiving the written notification of the withdrawal. The appeal shall state all of the facts and reasons upon which the person relies to show that the certificate or limited permit was wrongfully withdrawn. The Deputy Administrator shall grant or deny the appeal, in writing, stating the reasons for such decision, as promptly as circumstances permit. If there is a conflict as to any material fact, a hearing shall be held to resolve such conflict. Rules of Practice governing such a hearing shall be established by the Deputy Administrator.

§ 301.90-6 Compliance agreement and cancellation thereof.

(a) Any person engaged in the business of growing, handling, or moving regulated article may enter into a compliance agreement to facilitate the movement of regulated articles under this subpart.[6] The compliance agreement shall be a written agreement between a person engaged in such a business and Plant Protection and Quarantine, wherein the person agrees to comply with the provisions of this subpart and any conditions imposed pursuant thereto.

(b) Any compliance agreement may be cancelled orally or in writing by the inspector who is supervising its enforcement whenever the inspector finds that such person has failed to comply with the provisions of this subpart or any conditions imposed pursuant thereto. If the cancellation is oral, the decision and the reasons therefore shall be confirmed in writing, as promptly as circumstances permit. Any person whose compliance agreement has been cancelled may appeal the decision, in writing within ten (10) days after receiving written notification of the cancellation. The appeal shall state all of the facts and reasons upon which the person relies to show that the compliance agreement was wrongfully cancelled. The Deputy Administrator shall grant or deny the appeal, in writing, stating the reasons for such decisions, as promptly as circumstances permit. If there is a conflict as to any material fact, a hearing shall be held to resolve such conflict. Rules of Practice governing such a hearing shall be established by the Deputy Administrator.

§ 301.90-7 Assembly and inspection of regulated articles.

(a) Any person (other than a person authorized to issue certificates or limited permits under § 301.90-5(c)), who desires to move interstate a regulated article accompanied by a certificate or limited permit shall, as far in advance as possible (should be no less than 48 hours before the desired movement), request an inspector[7] to take any necessary action under this subpart prior to movement of the regulated article.

(b) Such articles shall be assembled at such point and in such manner as the inspector designates as necessary to comply with the requirements of this subpart.

§ 301.90-8 Attachment and disposition of certificates and limited permits.

(a) A certificate or limited permit required for the interstate movement of a regulated article, at all times during such movement, shall be securely attached to the outside of the containers containing the regulated article, securely attached to the article itself if not in a container, or securely attached to the consignee's copy of the accompanying waybill or other shipping document; *Provided however,* That the requirements of this section may be met by attaching the certificate or limited permit to the consignee's copy of the waybill or other shipping documents only if the regulated article is sufficiently described on the certificate, limited permit, or shipping document to identify such article.

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[6] Compliance Agreement forms are available without charges from the Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, Federal Building, Hyattsville, MD 20782, and from local offices of the Plant Protection and Quarantine. (Local offices are listed in telephone directories).

[7] Inspectors are assigned to local offices of Plant Protection and Quarantine which are listed in telephone directories. Information concerning such local offices may also be obtained from the Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, Federal Building, Hyattsville, MD 20782.

(b) The certificate or limited permit for the movement of a regulated article shall be furnished by the carrier to the consignee at the destination of the shipment.

§ 301.90-9 Costs and charges.

The service of the inspector shall be furnished without cost, except as provided in 7 CFR Part 354. The U.S. Department of Agriculture will not be responsible for any costs or charges incident to inspections or compliance with the provisions of the quarantine and regulations in this subpart, other than for the services of the inspector.

§ 301.90-10 Treatments.

Treatments for regulated articles shall be as set forth below. Treatment schedules for used mechanized farm equipment, used mechanized soil moving equipment, used custom farm equipment, and used containers are as follows:

(a) Water under pressure using a single orifice nozzle. All soil and other debris must be removed.

(b) Steam by using portable steam jennies or other steam equipment. The steam must remove all soil and other debris.

Precaution: Steam may remove loose paint and usually is not recommended for use on machinery with conveyor belts and rubber parts.

Limitation: Whether washed or steam cleaned, all soil and debris must be removed. If in the judgment of the inspector, equipment cannot be adequately cleaned, it must be fumigated.

(c) Methyl bromide at normal atmospheric pressure (NAP), chamber or tarpaulin.

Dosage:

240 g/m³ (15 lbs./1000 ft³) for 24 hrs. a 15.5° C (60° F) or above.

(180 g (oz.) minimum concentration readin at ½ hr.)

(120 g (oz.) minimum concentration readin at 24 hrs.)

or

128 g/m³ (8 lbs./1000 ft³) for 48 hours a 15.5° C (60° F) or above.

(100 g (oz.) minimum concentration readin at ½ hr.)

(75 g (oz.) minimum concentration readin at 24 hrs.)

(50 g (oz.) minimum concentration readin at 48 hrs.)

Limitation: Soil should be removed prio to fumigation. Particular attention must b paid to removing compacted soil.

Subpart—European Larch Canker

AUTHORITY: Secs. 8 and 9, 37 Stat. 318, a amended (7 U.S.C 161, 162); secs. 105 an 106, 71 Stat. 32, and 33 (7 U.S.C. 150dd 150ee); 7 CFR 2.17, 2.51, 371.2(c).

SOURCE: 49 FR 18992, May 4, 1984 (interi rule), and 50 FR 13178, Apr. 3, 1985 (fina rule), unless otherwise noted.

QUARANTINE AND REGULATIONS

§ 301.91 Quarantine and regulations; restrictions on interstate movement o regulated articles.[1]

(a) *Quarantines and regulations* The secretary of agriculture hereb quarantines the State of Maine i order to prevent the artificial sprea of European larch canker, *Lachnellul willkommi* (Dasycypha), a dangerou plant disease of trees of the *Larix* an *Pseudolarix* species not hereto fore widely prevalent or distributed withi and throughout the United State and hereby establishes regulation governing the interstate movement o regulated articles specified in § 301.91-2

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[1] Any properly identified inspector is authorized to stop and inspect persons an means of conveyance, and to seize, quarantine, treat, apply other remedial measure to, destroy, or otherwise dispose of regulated articles as provided in section 10 of th Plant Quarantine Act (7 U.S.C 164a) an sections 105 and 107 of the Federal Plan Pest Act (7 U.S.C. 150dd, 150ff).

(b) *Restrictions on interstate movement of regulated articles.* No common carrier or other person shall move interstate from any regulated area any regulated article except in accordance with the conditions prescribed in this subpart.

§ 301.91–1 Definitions.

Terms used in the singular form in this subpart shall be construed as the plural and vice versa, as the case may demand. The following terms, when used in this subpart, shall be construed, respectively, to mean:

(a) *Certificate.* A document which is issued for a regulated article by an inspector or by a person operating under a compliance agreement, and which represents that such article is eligible for interstate movement in accordance with § 301.91–5(a).

(b) *Compliance agreement.* A written agreement between Plant Protection and Quarantine and a person engaged in the business of growing, handling, or moving regulated articles, wherein the person agrees to comply with the provisions of this subpart and any conditions imposed pursuant thereto.

(c) *Deputy Administrator.* The Deputy Administrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine, or any officer or employee of the Department to whom authority to act in his/her stead has been or may hereafter be delegated.

(d) *European larch canker.* The plant disease known as European larch canker, *Lachnellula willkommi* (Dasycypha), in any stage of development.

(e) *Infestation.* The presence of European larch canker or the existence of circumstances that make it reasonable to believe that the European larch canker is present.

(f) *Inspector.* Any employee of Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or other person, authorized by the Deputy Administrator in accordance with law to enforce the provisions of the quarantines and regulations in this subpart.

(g) *Interstate.* From any State into or through any other State.

(h) *Limited permit.* A document which is issued for a regulated article by an inspector or by a person operating under a compliance agreement, and which represents that such regulated article is eligible for interstate movement in accordance with § 301.91–5(b).

(i) *Moved (movement, move).* Shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved or caused to be moved by any means. "Movement" and "move" shall be construed accordingly.

(j) *Person.* Any individual, partnership, corporation, company, society, association, or other organized group.

(k) *Plant Protection and Quarantine.* The organizational unit within the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, delegated responsibility for enforcing provisions of the Plant Quarantine Act, the Federal Plant Pest Act, and related legislation, and quarantines and regulations promulgated thereunder.

(l) *Regulated area.* Any State, or any portion thereof, listed in § 301.91–3(c) or otherwise designated as a regulated area in accordance with § 301.91–3(b).

(m) *Regulated article.* Any article listed in § 301.91–2(a) or otherwise designated as a regulated article in accordance with § 301.91–2(b).

(n) *State.* Each of the several States of the United States, the District of Columbia, Guam, the Northern Mariana Islands, Puerto Rico, the Virgin Islands of the United States and all other Territories and Possessions of the United States.

§ 301.91–2 Regulated articles.

The following are regulated articles:

(a) Logs, pulpwood, branches, twigs, plants, scion and other propagative material of the *Larix* or *Pseudolarix* spp. except seeds;

(b) Any other product, article, or means of conveyance, of any character whatsoever, not covered by paragraph (a) of this section, when it is determined by an inspector that it presents a risk of spread of European larch canker and the person in possession thereof has actual notice that the product, article or means of conveyance is subject to the restrictions in the quarantine and regulations.

§ 301.91-3 Regulated areas.

(a) Except as otherwise provided in paragraph (b) of this section, the Deputy Administrator shall list as a regulated area in paragraph (c) of this section, the State, or any portion thereof, in which European larch canker has been found by an inspector or in which the Deputy Administrator has reason to believe that European larch canker is present, or any portion of a quarantined State which the Deputy Administrator deems necessary to regulate beacuse of its proximity to a European larch canker infestation or its inseparability for quarantine enforcement purpose from localities in which European larch canker occurs. Less than an entire quarantined State will be designated as a regulated area only if the Deputy Administrator determines that:

(1) The State has adopted and is enforcing a quarantine or regulation which imposes restrictions on the intrastate movement of the regulated articles which are substantially the same as those which are imposed with respect to the interstate movement of such articles under this subpart; and

(2) The designation of less than the entire State as a regulated area will otherwise be adequate to prevent the artifical interstate spread of European larch canker.

(b) The Deputy Administrator or an inspector may temporarily designate any nonregulated area in a quarantined State as a regulated area in accordance with the criteria specified in paragraph (a) of this section for listing such area. Written notice of such designaton shall be given to the owner or person in possession of such nonregulated area, and, thereafter, the interstate movement of any regulated article from such area shall be subject to the applicable provisions of this subpart. As soon as practicable, such area shall be added to the list in paragraph (c) of this section or such designation shall be terminated by the Deputy Administrator or an inspector, and notice thereof shall be given to the owner or person in possession of the area.

(c) The areas described below are designated as regulated areas:

MAINE

Hancock County. The entire townships of Gouldsboro, Serrento, Sullivan, Winter Harbor, 7th Southern Division, 9th Southern Division, 10th Southern Division, and 16th Middle Division.

Knox County. The entire townships of Appleton, Camden, Cushing, Friendship, Hope, Owls Head, Rockland City, Rockport, South Thomaston, St. George, Thomaston, Union, Warren, and Washington.

Lincoln County. The entire townships of Alna, Boothbay Harbor, Bremen, Bristol, Damariscotta, Edgecomb, Jefferson, Newcastle, Nobleboro, Somerville, Southport, Waldoboro, Westport, and Wiscassett.

Waldo County. The entire townships of Lincolnville and Searsmont.

Washington County. The entire townships of Addison, Baring, Beals, Calais City, Centerville, Charolotte, Cherryfield, Columbia, Columbia Falls, Cooper, Cutler, Debolis, Dennysville, East Machias, Eastport, Edmunds, Harrington, Jonesboro, Jonesport, Lubec, Machias, Machiasport, Marion, Marshfield, Meddybemps, Milbridge, Northfield, Plantation 14, Pembroke, Perry, Robbinston, Roque Bluffs, Steuben, Trescott, Whiting, Whitneyville, 18th Eastern Division, 18th Middle Division, and 19th Middle Division.

[49 FR 18992, May 4, 1984, as amended at 49 FR 36817, Sept. 20, 1984; 50 FR 7033, Feb. 20, 1985; 50 FR 13178, Apr. 3, 1985; 50 FR 20887, May 21, 1985]

§ 301.91-4 Conditions governing the interstate movement of regulated articles from regulated areas in quarantined States.[2]

Any regulated article may be moved interstate from any regulated area in a quarantined State only if moved under the following conditions:

(a) With a certificate or limited permit issued and attached in accordance with §§ 301.91-5 and 301.91-8 of this subpart; or

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[2] Requirements under all other applicable Federal domestic plant quarantines must also be met.

(b) Without a certificate or limited permit;

(1) If moved to a contiguous regulated area; or

(2)(i) If moved directly through (moved without stopping except under normal traffic conditions such as traffic lights or stop signs) any regulated area in an enclosed vehicle or in an enclosed container on a vehicle to prevent the introduction of European larch canker;

(ii) If the article originated outside of any regulated area; and

(iii) If the point of origin of any article is clearly indicated by shipping documents and its identity has been maintained.

§ 301.91-5 Issuance and cancellation of certificates and limited permits.

(a) A certificate shall be issued by an inspector, except as provided in paragraph (c) of this section, for the movement of a regulated article if such inspector:

(1)(i) Determines based on inspection of the premises of origin that the premises are free from European larch canker; or

(ii) Determines that it has been grown, processed, stored, or handled in such a manner that the regulated article is free of European larch canker; and

(2) Determines that it is to be moved in compliance with any additional emergency conditions necessary to prevent the spread of the European larch canker pursuant to section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd);[3] and

(3) Determines that it is eligible for unrestricted movement under all other Federal domestic plant quarantines and regulations applicable to such article.

(b) A limited permit shall be issued by an inspector, except as provided in paragraph (c) of this section, for the movement of a regulated article if such inspector:

(1) Determines, in consultation with the Deputy Administrator, that it is to be moved to a specified destination for specified handling, utilization, or processing (such destination and other conditions to be specified on the limited permit), when, upon evaluation of all of the circumstances involved in each case, it is determined that such movement will not result in the spread of European larch canker because the disease will be destroyed by such specified handling, utilization, or processing;

(2) Determines that it is to be moved in compliance with any additional emergency conditions necessary to prevent the spread of the European larch canker pursuant to section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd)[3]; and

(3) Determines that it is eligible for such movement under all other Federal domestic plant quarantines and regulations applicable to such article.

(c) Certificates and limited permits may be issued by any person engaged in the business of growing, handling, or moving regulated articles provided such person has entered into and is operating under a compliance agreement. Any such person may execute and issue a certificate or limited permit for the interstate movement of a regulated article if an inspector has previously made the determination that the article is eligible for a certificate in accordance with § 301.91-5(a) or is eligible for a limited permit in accordance with § 301.91-5(b).

(d) Any certificate or limited permit which has been issued or authorized may be withdrawn by an inspector if such inspector determines that the holder thereof has not complied with any conditions under the regulations for the use of such document. The reasons for the withdrawal shall be confirmed in writing as promptly as circumstances permit. Any person whose certificate or limited permit has been withdrawn may appeal the decision in writing to the Deputy Administrator within ten (10) days after receiving the written notification of the withdrawal. The appeal shall state all of the facts and reasons upon which the person relies to show that the certificate or limited permit was wrongfully withdrawn. The Deputy Administrator shall grant or deny the appeal, in witing, stating the reasons for such decision, as promptly as circmstances permit. If there is a conflict as to any material fact, a hearing shall be held to resolve such conflict. Rules of Practice concerning such a hearing will be adopted by the Deputy Administrator.

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[3] Section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd) provides, among other things, that the Secretary of Agriculture may, whenever he deems it necessary as an emergency measure in order to prevent the dissemination of any plant pest new to or not theretofore known to be widely prevalent or distributed within and throughout the United States seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of, in such manner as he deems appropriate, any product or article of any character whatsoever, or means or conveyance, which is moving into or through the United States or interstate, and which he has reason to believe is infested or infected by or contains any such plant pest.

§ 301.91-6 Compliance agreement and cancellation thereof.

(a) Any person engaged in the business of growing, handling, or moving regulated articles may enter into a compliance agreement to facilitate the movement of regulated articles under this subpart.[4] The compliance agreement shall be a written agreement between a person engaged in such a business and Plant Protection and Quarantine, wherein the person agrees to comply with the provisions of this subpart and any conditions imposed pursuant thereto.

(b) Any compliance agreement may be cancelled orally or in writing by the inspector who is supervising its enforcement whenever the inspector finds that such person has failed to comply with the provisions of this subpart or any conditions imposed pursuant thereto. If the cancellation is oral, the decision and the reasons therefor shall be confirmed in writing, as promptly as circumstances permit. Any person whose compliance agreement has been cancelled may appeal the decision, in writing, to the Deputy Administrator within ten (10) days after receiving written notification of the cancellation. The appeal shall state all of the facts and reasons upon which the person relies to show that the compliance agreement was wrongfully cancelled. The Deputy Administrator shall grant or deny the appeal, in writing, stating the reasons for such decision, as promptly as circumstances permit. If there is a conflict as to any material fact, a hearing shall be held to resolve such conflict. Rules of Practice concerning such a hearing will be adopted by the Deputy Administrator.

§ 301.91-7 Assembly and inspection of regulated articles.

(a) Any person (other than a person authorized to issue certificates or limited permits under § 301.91-5(c)), who desires to move interstate a regulated article accompanied by a certificate or limited permit shall, as far in advance as possible (should be no less than 48 hours before the desired movement), request an inspector[5] to take any necessary action under this subpart prior to movement of the regulated article.

(b) Such articles shall be assembled at such point and in such manner as the inspector designates as necessary to comply with the requirements of this subpart.

§ 301.91-8 Attachment and disposition of certificates and limited permits.

(a) A certificate or limited permit required for the interstate movement of a regulated article, at all times during such movement, shall be securely attached to the outside of the containers containing the regulated article, securely attached to the article itself if not in a container, or securely attached to the consignee's copy of the accompanying waybill or other shipping document; *Provided, however,* That the requirements of this section may be met by attaching the certificate or limited permit to the consignee's copy of the waybill or other shipping documents only if the regulated article is sufficiently described on the certificate, limited permit, or shipping document to identify such article.

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[4] Compliance agreement forms are available without charge from the Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, Federal Building, Hyattsville, MD 20782, and from local offices of the Plant Protection and Quarantine. (Local offices are listed in telephone directories).

[5] Inspectors are assigned to local offices of Plant Protection and Quarantine which are listed in telephone directories. Information concerning such local offices may also be obtained from the Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, Federal Building, Hyattsville, MD 20782.

(b) The certificate or limited permit for the movement of a regulated article shall be furnished by the carrier to the consignee at the destination of the shipment.

§ 301.91-9 Costs and charges.

The services of the inspector shall be furnished without cost, except as provided in 7 CFR Part 354. The U.S. Department of Agriculture will not be responsible for any costs or charges incident to inspections or compliance with the provisions of the quarantine and regulations in this subpart, other than for the services of the inspector.

Subpart—Oriental Fruit Fly

SOURCE: 50 FR 43121, Oct. 24, 1985, unless otherwise noted.

§ 301.93 Restrictions on interstate movement of regulated articles.[1]

No common carrier or other person shall move interstate from any quarantined area any regulated article except in accordance with the conditions prescribed in this subpart.

§ 301.93-1 Definitions.

Terms used in the singular form in this subpart shall be construed as the plural and vice versa, as the case may demand. The following terms, when used in this subpart, shall be construed, respectively, to mean:

Certificate. A document which is issued for a regulated article by an inspector or by a person operating under a compliance agreement, and which represents that such article is eligible for interstate movement to any destination.

Compliance agreement. A written agreement between Plant Protection and Quarantine and a person engaged in the business of growing, handling, or moving regulated articles, wherein the person agrees to comply with the provisions of this subpart and any conditions imposed pursuant thereto.

Deputy Administrator. The Deputy Administrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine, or any officer or employee of the Department to whom authority to act in his or her stead has been or may hereafter be delegated.

Infestation. The presence of the Oriental fruit fly or the existence of circumstances that make it reasonable to believe that the Oriental fruit fly is present.

Inspector. Any employee of Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or other person, authorized by the Deputy Administrator in accordance with law to enforce the provisions of this subpart.

Interstate. From any State into or through any other State.

Limited permit. A document which is issued for a regulated article by an inspector or by a person operating under a compliance agreement, and which represents that such regulated article is eligible for interstate movement in accordance with § 301.93-5(b).

Moved. Shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved by any means.

Movement or move. The act of shipping, offering for shipment to a common carrier, receiving for transportation or transporting by a common carrier, or carrying, transporting, moving, or allowing to be moved by any means.

Oriental fruit fly. The insect known as Oriental fruit fly (*Dacus dorsalis* (Hendel)) in any stage of development.

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[1] Any properly identified inspector is authorized to stop and inspect persons and means of conveyance, and to seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of regulated articles as provided in section 10 of the Plant Quarantine Act (7 U.S.C. 164a) and sections 105 and 107 of the Federal Plant Pest Act (7 U.S.C. 150dd, 150ff).

Person. Any individual, partnership, corporation, company, society, association, or other organized group.

Plant Protection and Quarantine. The organizational unit within the Animal and Plant Health Inspection Service, United States Department of Agriculture delegated responsibility for enforcing provisions of the Plant Quarantine Act, the Federal Plant Pest Act, and related legislation, and quarantines and regulations promulgated thereunder.

Quarantined area. Any State, or any portion thereof, listed in § 301.93-3(c) or otherwise designated as a quarantined area in accordance with § 301.93-3(b).

Regulated article. Any article listed in § 301.93-2 or otherwise designated as a regulated article in accordance with § 301.93-2(c).

State. Each of the several States of the United States, the District of Columbia, Guam, Northern Mariana Islands, Puerto Rico, the Virgin Islands of the United States, and all other Territories and Possessions of the United States.

§ 301.93-2 Regulated articles.

(a) The following fruits, nuts, vegetables and berries:

Akia (*Wikstroemia phyllyraefolia*)
Alexander laurel (*Calophyllum inophyllum*)
Apple (*Malus sylvestris*)
Apricot (*Prunus armeniaca*)
Avocado (*Persea americana*)
Banana
  (*Musa paradisiaca* var. *sapientum*)
  (*Musa x paradisiaca*)
Banana, dwarf (*Musa nana*)
Barbados cherry (*Malpighia glabra*)
Bell pepper (*Capsicum frutescens grossum*)
Brazil cherry (*Eugenia dombeyi*)
Breadfruit (*Artocarpus altilis*)
Caimitillo (*Chrysophyllum oliviforme*)
Cashew (*Anacardium occidentale*)
Cactus (*Cereus coerulescens*)
Cherimoya (*Anonna cherimola*)
Cherry, Catalina (*Prunus ilicifolia*)
Cherry, Portuguese (*P. lusitanica*)
Chili (*Capsicum frutescens var. longum*)
Coffee, Arabian (*Coffea arabica*)
Country gooseberry (*Averrhoa carambola*)
Cucumber (*Cucumis sativas*)
Custard apple (*Annona reticulata*)
Date palm (*Phoenix dactylifera*)
Dragon tree (*Dracena draco*)
Eggfruit tree (*Pouteria campechiana*)
Elengi tree (*Mimusops elengi*)
Fig (*Ficus carica*)
Gourka (*Garcinia celebica*)
Granadilla, sweet (*Passiflora ligularis*)
Grape (*Vitis spp.*)
Grapefruit (*Citrus paradisi*)
Guava
  (*Psidium guajava*)
  (*P. Littorale*)
  (*P. cattleianum*)
Imbu (*Spondias tuberosa*)
Jackfruit (*Artocarpus heterophyllus*)
Jerusalem cherry (*Solanum pseudocapsicum*)
Kitembilla (*Dovyalis hebecarpa*)
Kumquat (*Fortunella japonica*)
Laurel (*Calophyllum inophyllum*)
Lemon (*Citrus limon*)
Lime (*Citrus aurantifolia*)
Longan (*Euphoria longan*)
Loquat (*Eriobotrya japonica*)
Lychee nut (*Lychee chinensis*)
Malay apple (*Eugenia malaccensis*)
Mammee apple (*Mammea americana*)
Mandarin orange
  (*Citrus reticulata*)
  (tangerine)
Mango (*Mangifera indica*)
Mangosteen (*Garcinia mangostana*)
Mock orange (*Murraya exotica*)
Mulberry (*Morus nigra*)
Myrtle, downy rose (*Rhodomyrtus tomentosa*)
Natal plum (*Carissa grandiflora*)
Nectarine (*Prunus persica* var. *nectarina*)
Oleander, yellow (*Thevetia peruviana*)
Orange, calamondin (*Citrus mitis* and *C. japonica*)
Orange, Chinese (*Citrus japonica hazara*)
Orange, king (*Citrus nobilis*)
Orange, sweet (*Citrus sinensis*)
Orange, Unshu (*Citrus unshu*)
Oriental bush red pepper (*Capsicum frutescens abbreviatum*)
Otaheite apple (*Spondias dulcis*)
Palm, syrup (*Jubaea spectabilis*)
Papaya (*Carica papaya*)
Passionflower (*Passiflora edulis*)
Passionflower, softleaf (*Passiflora mollissima*)
Passionfruit (*Passiflora edulis flavicarpa*)
  (yellow lilikoi)
Peach (*Prunus persica*)
Pear (*Pyrus communis*)
Pepino (*Solanum muricatum*)
Pepper, sweet (*Capsicum frutescens* var. *grossum*)
Persimmon, Japanese (*Diospyros kaki*)
Pineapple guava (*Feijoa sellowiana*)
Plum (*Prunus americana*)
Pomegranate (*Punica granatum*)
Prickly pear
  (*Opuntia megacantha*)
  (*Opuntia ficus indica*)
Prune (*Prunus domestica*)
Pummelo (*Citrus grandis*)
Quince (*Cydonia oblonga*)
Rose apple (*Eugenia jambos*)

Sandalwood (*Santalum paniculatum*)
Sandalwood, white (*Santalum album*)
Santol (*Sandericum koetjape*)
Sapodilla (*Manilkara zapota*)
Sapodilla, chiku (*Achras zapota*)
Sapota, white (*Casimiroa edulis*)
Seagrape (*Coccoloba uvifera*)
Sour orange (*Citrus aurantium*)
Soursop (*Annona muricata*)
Star apple (*Chrysophyllum cainito*)
Surinam cherry (*Eugenia uniflora*)
Tomato (*Lycopersicon esculentum*)
Tropical almond
  (*Terminalia catappa*)
  (*Terminalia chebula*)
Velvet apple (*Diospyros discolor*)
Walnut (*Juglans hindsii*)
Walnut, English (*Juglans regia*)
Wampi (*Citrus lansium*)
West Indian cherry (*Maipighia punicifolia*)
Ylang-Ylang (*Cananga odorata*)

Except that the list does not include any fruits, nuts, vegetables, or berries which are canned or have been frozen below −17.8° C. (0° F.);

(b) Soil within the drip area of plants which produce the fruits, nuts, vegetables, or berries listed in paragraph (a) of this section; and

(c) Any other product, article, or means of conveyance, of any character whatsoever, not covered by paragraphs (a) or (b) of this section, when it is determined by an inspector that it presents a risk of spread of the Oriental fruit fly and the person in possession thereof has actual notice that the product, article, or means of conveyance is subject to the restrictions of this subpart.

§ 301.93-3 Quarantined areas.

(a) Except as otherwise provided in paragraph (b) of this section, the Deputy Administrator shall list as a quarantined area in paragraph (c) of this section, each State, or each portion thereof, in which the Oriental fruit fly has been found by an inspector, or in which the Deputy Administrator has reason to believe that the Oriental fruit fly is present, or each portion of a State which the Deputy Administrator deems necessary to regulate because of its proximity to the Oriental fruit fly or its inseparability for quarantine enforcement purposes from localities in which the Oriental fruit fly occurs. Less than an entire State will be designated as a quarantined area only if the Deputy Administrator determines that:

(1) The State has adopted and is enforcing a quarantine or regulation which imposes restrictions on the intrastate movement of the regulated articles which are substantially the same as those which one imposed with respect to the interstate movement of such articles under this supbart; and

(2) The designation of less than the entire State as a quarantined area will otherwise be adequate to prevent the artificial interstate spread of the Oriental fruit fly.

(b) The Deputy Administrator or an inspector may temporarily designate any nonquarantined area in a State as a quarantined area in accordance with the criteria specified in paragraph (a) of this section for listing such area. Written notice of such designation shall be given to the owner or person in possession of such nonquarantined area, and, thereafter, the interstate movement of any regulated article from such area shall be subject to the applicable provisions of this subpart. As soon as practicable, such area shall be added to the list in paragraph (c) of this section or such designation shall be terminated by the Deputy Administrator or an inspector, and notice thereof shall be given to the owner or person in possession of the area.

(c) The areas described below are designated as quarantined areas:

CALIFORNIA

(1) That portion of Los Angeles and Orange Counties lying within the following boundaries: Beginning at the intersection of Artesia Boulevard and Atlantic Avenue; then southerly along said avenue to its intersection with Ocean Boulevard; then due south along an imaginary line from said intersection to the Pacific Ocean coastline; then southeasterly along said coastline to the Los Angeles-Orange County line; then easterly along an imaginary line to the intersection of the Pacific Coast Highway and Main Street; then northerly along said street to its intersection with Bolsa Avenue; then easterly along said avenue to its intersection with Valley View Avenue; then northerly along

Valley View Avenue to its intersection with Bolsa Avenue; then easterly along said avenue to its intersection with Bolsa Chica Road; then northerly along said road to its intersection with Calley View Avenue; then northerly along said avenue to its intersection with Artesia Boulevard; then westerly along said boulevard to the point of the beginning.

(2) That portion of Los Angeles County lying within the following boundaries: Beginning at the point where State Highway 2 (Glendale Freeway) intersects with Interstate Highway 210; then southeasterly along Interstate Highway 210 to its intersection with Linda Vista Avenue; then southerly along said avenue to its intersection with Colorado Boulevard; then easterly along said boulevard to its intersection with Arroyo Boulevard; then southerly along Arroyo Boulevard to its intersection with State Highway 110; then southwesterly along said highway to its intersection with Academy Road; then northwesterly along said road to its intersection with Morton Avenue; then southwesterly along said avenue to its intersection with Sunset Boulevard; then northeasterly along said boulevard to its intersection with Silverlake Boulevard; then southwesterly along Silverlake Boulevard to its intersection with U.S. Highway 101; then northwesterly along said highway to its intersection with Vine Street; then northerly along an imaginary line from said intersection to the intersection of State Highway 134 and Buena Vista Street; then northwesterly along said street to its intersection with Kenneth Road; then easterly along an imaginary line from said intersection to the point of beginning.

(3) That portion of Santa Clara County lying within the following boundaries: Beginning at a point where U.S. Highway 101 intersects State Highway 237; then northeasterly along State Highway 237 to its intersection with Lawrence Expressway; then southerly along said expressway to its intersection with Tasman Drive; then easterly along said drive to its intersection with Lafayette Street; then southeasterly along said street to its intersection with Montague Expressway; then northeasterly along said expressway to its intersection with North First Street; then southeasterly along said street to its intersection with State Highway 17; then southeasterly along said highway to its intersection with State Highway 82, then southwesterly along State Highway 82 to its intersection with Naglee Avenue; then southwesterly along said avenue to its intersection with Park Avenue; then southeasterly along Park Avenue to its intersection with Shasta Avenue; then southerly along Shasta Avenue to its intersection with Leigh Avenue; then southerly along Leigh Avenue to its intersection with Campbell Avenue; then westerly along Campbell Avenue to its intersection with San Tomas Aquino Road; then south along said road to its intersection with Bucknall Road; then westerly along Bucknall Road to its intersection with Quito Road; then southerly along Quito Road to its intersection with Cox Avenue; then westerly along said avenue to its intersection with Saratoga Sunnyvale Road; then westerly along an imaginary line from said intersection to the intersection of Mount Eden Road and Stevens Canyon Road; then northerly along Stevens Canyon Road to its intersection with Foothill Boulevard; then northerly along said boulevard to its intersection with Foothill Expressway; then northwesterly along said expressway to its intersection with Miramonte Avenue; then northerly along said avenue to its intersection with Castro Street; then northeasterly along said street to its intersection with Moffett Boulevard; then northeasterly along said boulevard to its intersection with U.S. Highway 101; then southeasterly along said highway to the point of beginning.

[50 FR 43121, Oct. 24, 1985, as amended at 50 FR 48162, Nov. 22, 1985]

§ 301.93-4 Conditions governing the interstate movement of regulated articles from quarantined areas.[2]

Any regulated article may be moved interstate from a quarantined area only if moved under the following conditions:

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[2] Requirements under all other applicable Federal domestic plant quarantines and regulations must also be met.

(a) With a certificate or limited permit issued and attached in accordance with §§ 301.93-5 and 301.93-8;

(b) Without a certificate or limited permit, if:

(1) The article originated outside of any quarantined area and is moved directly through (without stopping except for brief refueling, or for normal traffic conditions, such as traffic lights or stop signs) the quarantined area in an enclosed vehicle or is completely enclosed by a covering adequate to prevent access by Oriental fruit flies (such as canvas, plastic, or closely woven cloth) while moving through the quarantined area, and

(2) The point of origin of the article is clearly indicated by shipping documents and its identity has been maintained.

(c) Without a certificate or limited permit, if:

(1) Moved by the United States Department of Agriculture for experimental or scientific purposes;

(2) Moved pursuant to a permit issued by the Deputy Administrator;

(3) Moved in accordance with conditions specified on the permit and found by the Deputy Administrator to be adequate to prevent the dissemination of the Oriental fruit fly, i.e., conditions of treatment, processing, shipment, disposal; and

(4) Moved with a tag or label securely attached to the outside of the container containing the article or securely attached to the article itself if not in a container, and with such tag or label bearing a permit number corresponding to the number of the permit issued for such article.

§ 301.93-5 Issuance and cancellation of certificates and limited permits.

(a) A certificate shall be issued by an inspector for the interstate movement of a regulated article if such inspector:

(1)(i) Determines that it has been treated under the direction of an inspector in accordance with § 301.93-10; or

(ii) Determines, based on inspection of the premises of origin, that the premises are free from Oriental fruit fly and the article has not been exposed to Oriental fruit fly; or

(iii) Determines, based on inspection of the article, that it is free of Oriental fruit fly; and

(2) Determines that it is to be moved in compliance with any additional emergency conditions necessary to prevent the spread of the Oriental fruit fly pursuant to section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd); [3] and

(3) Determines that it is eligible for unrestricted movement under all other Federal domestic plant quarantines and regulations applicable to such articles.

(b) A limited permit shall be issued by an inspector [4] for the movement of a regulated article if such inspector:

(1) Determines, in consultation with the Deputy Administrator, that it is to be moved to a specified destination for specified handling, utilization, or processing (such destination and other conditions to be specified in the limited permit), and when upon evaluation of all of the circumstances involved in each case, it is determined that such movement will not result in the spread

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[3] Section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd) provides, among other things, that the Secretary of Agriculture may, whenever he deems it necessary as an emergency measure in order to prevent the dissemination of any plant pest new to or not theretofore known to be widely prevalent or distributed within and thoughout the United States, seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of, in such manner as he deems appropriate, any product or article of any character whatsoever, or means of conveyance, which is moving into or through the United States or interstate, and which he has reason to believe is infested or infected by or contains any such plant pest; or which has moved into the United States or interstate, and which he has reason to believe was infested or infected by or contained any such plant pest at the time of such movement.

[4] Inspectors are assigned to local offices of plant Protection and Quarantine which are listed in telephone directories. Information concerning such local offices may also be obtained from the Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, Federal Building, Hyattsville, Maryland, 20782

of the Oriental fruit fly because life stages of the pest will be destroyed by such specified handling, utilization, or processing;

(2) Determines that it is to be moved in compliance with any additional emergency conditions necessary to prevent the spread of the Oriental fruit fly pursuant to section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd); and

(3) Determines that it is eligible for such movement under all other Federal domestic plant quarantines and regulations applicable to such articles.

(c) Certificates and limited permits for use for movement of regulated articles may be issued by an inspector [4] or person engaged in the business of growing, handling, or moving regulated articles provided such person is operating under a compliance agreement. Any such person may execute and issue a certificate for the interstate movement of a regulated article if the inspector has made the determination that such article is otherwise eligible for a certificate in accordance with paragraph (a) of this section. Any such person may execute and issue a limited permit for interstate movement of a regulated article when the inspector has made the determination that such article is eligible for a limited permit in accordance with paragraph (b) of this section.

(d) Any certificate or limited permit which has been issued or authorized may be withdrawn by an inspector orally or in writing, if such inspector determines that the holder thereof has not complied with all conditions under the regulations for the use of such document. If the cancellation is oral, the decision and the reasons for the withdrawal shall be confirmed in writing as promptly as circumstances allow. Any person whose certificate or limited permit has been withdrawn may appeal the decision in writing to the Deputy Administrator within ten (10) days after receiving the written notification of the withdrawal. The appeal shall state all of the facts and reasons upon which the person relies to show that the certificate or limited permit was wrongfully withdrawn. The Deputy Administrator shall grant or deny the appeal, in writing, stating the reasons for such decision, as promptly as circumstances allow. If there is a conflict as to any material fact, a hearing shall be held to resolve such conflict. Rules of practice concerning such a hearing will be adopted by the Deputy Administrator.

§ 301.93-6 Compliance agreement and cancellation thereof.

(a) Any person engaged in the business of growing, handling, or moving regulated articles may enter into a compliance agreement to facilitate the movement of regulated articles under this subpart.[5] The compliance agreement shall be a written agreement between a person engaged in such a business and Plant Protection and Quarantine, wherein the person agrees to comply with the provisions of this subpart and any conditions imposed pursuant thereto.

(b) Any compliance agreement may be cancelled orally or in writing by the inspector who is supervising its enforcement whenever the inspector finds that such person has failed to comply with the provisions of this subpart or any conditions imposed pursuant thereto. If the cancellations is oral, the decision and the reasons therefor shall be confirmed in writing, as promply as circumstances allow. Any person whose compliance agreement has been cancelled may appeal the decision, in writing, within ten (10) days after receiving written notification of the cancellation. The appeal shall state all of the facts and reasons upon which the person relies to show that the compliance agreement was wrongfully cancelled. The Deputy Administrator shall grant or deny the appeal in writing, stating the reasons for such decision, as promptly as circumstances allow. If there is a conflict as to any material fact, a hearing shall be held to resolve such conflict. Rules of practice concerning such a hearing will be adopted by the Deputy Administrator.

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[5] Compliance agreement forms are available without charge from the Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, Federal Building, Hyattsville, MD 20782, and from local offices of the Plant Protection and Quarantine (Local offices are listed in telephone directories).

§ 301.93-7 Assembly and inspection of regulated articles.

(a) Any person (other than a person authorized to issue certificates or limited permits under § 301.93-5(c)), who desires to move interstate a regulated article accompanied by a certificate or limited permit shall, as far in advance as possible (should be no less than 48 hours before the desired movement), request an inspector[4] to take necessary action under this subpart prior to movement of the regulated article.

(b) Such article shall be assembled at such point and in such manner as the inspector designates as necessary to comply with the requirements of this subpart.

§ 301.93-8 Attachment and disposition of certificates and limited permits.

(a) A certificate or limited permit required for the interstate movement of a regulated article, at all times during such movement, shall be securely attached to the outside of the container containing the regulated article, securely attached to the article itself if not in a container, or securely attached to the consignee's copy of the accompanying waybill or other shipping document: *Provided however,* that the requirements of this section may be met by attaching the certificate or limited permit to the consignee's copy of the waybill or other shipping documents only if the regulated article is sufficiently described on the certificate, limited permit, or shipping document to identify such article.

(b) The certificate or limited permit for the movement of a regulated article shall be furnished by the carrier to the consignee at the destination of the shipment.

§ 301.93-9 Costs and charges.

The services of the inspector shall be furnished without cost. The United States Department of Agriculture will not be responsible for any costs or changes incident to inspections or compliance with the provisions of the regulations in this subpart, other than for the services of the inspector.

§ 301.93-10 Treatments.

The treatment schedules for regulated articles are as follows:

(a) *Avocado:* Fumigation with methyl bromide at normal atmospheric pressure with 32 g/m³ for 2½ hours at 21 °C. (70 °F.) or above followed by refrigeration for 7 days at 7.22°C. (45 °F.) or below. The 7 day period may include up to 24 hours precooling time. Time between fumigation and start of cooling shall not exceed 24 hours, but must include at least 30 minutes aeration.

(b) *Tomato:* Fumigation with methyl bromide at normal atmospheric pressure with 32 g/m³ for 3½ hours at 21 °C. (70 °F.) or above.

(c) *Papaya, pepper and tomato:* Heat the article by saturated water vapor at 44.44 °C. (112 °F.) until approximate center of article reaches 44.44 °C. (112 °F.) , and maintain at 44.44 °C. (112 °F.) for 8¾ hours, then immediately cool.

NOTE: Commodities should be tested by the shipper at the 44.44 °C. (112 °F.) temperature to determine each commodity's tolerance to the treatment before commercial treatments are attempted. Pretreatment conditioning is optional. Such conditioning is the responsibility of the shipper and would be conducted in accordance with procedures the shipper believes necessary. It is common to perform pretreatment conditioning. For example, it is the practice to condition eggplant at 43.30 °C. (110 °F.) at 40 percent relative humidity for 6 to 8 hours.

(d) *Apple, apricot, cherry, fig, grape, grapefruit, lemon, nectarine, peach, pear, plum, pomegranate and prickly pear:* Fumigation with 32 g/m³ methyl bromide at 21 °C. (70 °F.) or above (chamber load not to exceed 80 percent of volume), and at normal atmospheric pressure, followed by refigeration, as set forth below.

Fumigation exposure time	Refrigeration
2 hours	4 days at 0.55°-2.7°C. (33°-37°F.); or 11 days at 3.33°-8.3°C. (38°-47°F.)
2½ hours	4 days at 3.33°-4.44°C. (38°-40°F.); or 6 days at 5.0°-8.33°C. (41°-47°F.); or 10 days at 8.88°-13.33°C. (48°-56°F.)
3 hours	3 days at 6.11°-8.33°C. (43°-47°F.); or 6 days at 8.88°-13.33°C. (48-56°F.)

Minimum concentration for above fumigations.

(25 g minimum gas concentration at ½ hr.)
(18 g minimum gas concentration at 2 or 2½ hrs.)
(17 g minimum gas concentration at 3 hrs.)

Aerate all fruit at least 2 hours following fumigation. Time lapse between fumigation and start of cooling shall not exceed 24 hours.

NOTE:Some varieties of fruit may be injured by methyl bromide. Shippers should test treat before making commercial shipments.

(e) *Soil:* Soil within the drip area of plants which are producing or have produced the fruits, nuts, vegetables and berries listed in § 301.93-2(a): Apply diazinon at the rate of 5 pounds actual ingredient per acre to the soil within the drip area with sufficient water to wet the soil to at least a depth of ½ inch. Both immersion and pour-on treatment procedures are acceptable.

Subpart—Africanized Honey Bee

SOURCE: 50 FR 33510, Aug. 20, 1985, unless otherwise noted.

§ 301.94 Restrictions on interstate movement of regulated articles. [1]

No common carrier or other person shall move interstate from any quarantined area any regulated article except in accordance with the conditions prescribed in this subpart.

§ 301.94-1 Definitions.

Terms used in the singular form in this subpart shall be construed as the plural and vice versa, as the case may demand. The following terms, when used in this subpart, shall be construed, respectively, to mean:

Africanized honey bee. The insect known as *Apis mellifera scutellata* in any stage of development. This includes honey bees with characteristics identifiable with the subspecies *Apis mellifera scutellata* regardless of the purity of the genetic strains of the bees.

Certificate. A document which is issued for a regulated article by an inspector or by a person operating under a compliance agreement, and which represents that such article is eligible for interstate movement.

Compliance agreement. A written agreement between Plant Protection and Quarantine and a person engaged in the business of handling or moving regulated articles, wherein the person agrees to comply with the provisions of this subpart and any conditions imposed pursuant thereto.

Deputy Administrator. The Deputy Administrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine, or any officer or employee of the Department to whom authority to act in his/her stead has been or may hereafter be delegated.

Infestation. The presence of the Africanized honey bee or the existence of circumstances that make it reasonable to believe that the Africanized honey bee is present.

Inspector. Any employee of Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or other person, authorized by the Deputy Administrator in accordance with law to enforce the provisions of this subpart.

Interstate. From any State into or through any other State.

Moved. Shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved by any means.

Movement or move. The act of shipping, offering for shipment to a common carrier, receiving for transportation or transporting by a common carrier, or carrying, transporting, moving, or allowing to be moved by any means.

Person. Any individual, partnership, corporation, company, society, association, or other organized group.

Plant Protection and Quarantine. The organizational unit within the

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[1] Any properly identified inspector is authorized to stop and inspect persons and means of conveyance, and to seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of regulated articles as provided in sections 105 and 107 of the Federal Plant Pest Act (7 U.S.C. 150dd, 150ff).

Animal and Plant Health Inspection Service, U.S. Department of Agriculture, delegated responsibility for enforcing provisions of the Plant Quarantine Act, the Federal Plant Pest Act, and related legislation, and quarantines and regulations promulgated thereunder.

Quarantined area. Any State, or any portion thereof, listed in § 301.94-3(c) or otherwise designated as a quarantined area in accordance with § 301.94-3(b).

Regulated article. Any article listed in § 301.94-2 or otherwise designated as a regulated article in accordance with § 301.94-2(f).

State. Each of the several States of the United States, the District of Columbia, Guam, Northern Mariana Islands, Puerto Rico, the Virgin Islands of the United States and all other Territories and Possessions of the United States.

§ 301.94-2 Regulated articles.

(a) Bees of the genus *Apis*, in any life stage;

(b) Fresh or frozen bee sperm;

(c) Equipment, and shipping and storage containers that have been used at an apiary;

(d) Unprocessed comb;

(e) Vehicles that have been used to carry regulated articles other than fresh or frozen bee sperm; and

(f) Any other product, article, or means of conveyance, of any character whatsoever, not covered by paragraphs (a) through (e) of this section, when it is determined by an inspector that it presents a risk of spread of the Africanized honey bee and the person in possession thereof has actual notice that the product, article, or means of conveyance is subject to the restrictions of this subpart.

§ 301.94-3 Quarantined areas.

(a) Except as otherwise provided in paragraph (b) of this section, the Deputy Administrator shall list as a quarantined area in paragraph (c) of this section, each State, or each portion thereof, in which the Africanized honey bee has been found by an inspector, or in which the Deputy Administrator has reason to believe that the Africanized honey bee is present, or each portion of a State which the Deputy Administrator deems necessary to regulate because of its proximity to the Africanized honey bee or its inseparability for quarantine enforcement purposes from localities in which the Africanized honey bee occurs. Less than an entire State will be designated as a quarantined area only if the Deputy Administrator determines that:

(1) The State has adopted and is enforcing a quarantine or regulation which imposes restrictions on the intrastate movement of the regulated articles which are substantially the same as those which are imposed with respect to the interstate movement of such articles under this subpart; and

(2) The designation of less than the entire State as a quarantined area will otherwise be adequate to prevent the artificial interstate spread of the Africanized honey bee.

(b) The Deputy Administrator or an inspector may temporarily designate any nonquarantined area in a State as a quarantined area in accordance with the criteria specified in paragraph (a) of this section for listing such area. Written notice of such designation shall be given to the owner or person in possession of such nonquarantined area, and, thereafter, the interstate movement of any regulated article from such area shall be subject to the applicable provisions of this subpart. As soon as practicable, such area shall be added to the list in paragraph (c) of this section or such designation shall be terminated by the Deputy Administrator or an inspector, and notice thereof shall be given to the owner or person in possession of the area.

(c) The area described below is designated as a quarantined area:

CALIFORNIA

Kern County. That portion of the county beginning at a point where Garces Highway intersects Corcoran Road; then west along an imaginary line from said point to the northwest corner of sec. 14, T. 25 S., R. 19 E., then south along an imaginary line from said corner to the southwest corner of sec. 35, T. 28 S., R. 19 E., then east from said corner along an imaginary line to its intersection with Seventh Standard Road; then east along said road to the southeast corner of sec. 31, T. 28 S., R. 23 E.; then north from said corner along an imaginary line to its intersection with Garces Highway; then west along said highway to the point of beginning.

§ 301.94-4 Conditions governing the interstate movement of regulated articles from quarantined areas.[2]

Any regulated article may be moved interstate from a quarantined area only if moved under the following conditions:

(a) With a certificate issued and attached in accordance with §§ 301.94-5 and 301.94-8;

(b) Without a certificate, if:

(1) The article originated outside of any quarantined area and is moved directly through (without stopping except for brief refueling, or for normal traffic conditions, such as traffic lights or stop signs) the quarantined area;

(2) The article, if other than sperm or a vehicle, is in a bee-proof container, or enclosed by a covering adequate to prevent access by bees (such as canvas, plastic, or closely woven cloth) while moving through the quarantined area;

(3) The article, if a vehicle, has all portions of the vehicle that had been used for carrying regulated articles (other than fresh or frozen sperm) enclosed by a covering adequate to prevent access by bees (such as canvas, plastic, or closely woven cloth) while moving through the quarantined area; and

(4) The point of origin of the article is clearly indicated by shipping documents and its identity has been maintained.

(c) Without a Certificate, if:

(1) Moved by the United States Department of Agriculture for experimental or scientific purposes;

(2) Moved pursuant to a permit issued for such article by the Deputy Administrator;

(3) Moved in accordance with conditions specified on the permit and found by the Deputy Administrator to be adequate to prevent the dissemination of the Africanized honey bee, i.e., conditions of treatment, processing, shipment, disposal; and

(4) Moved with a tag or label securely attached to the outside of the container containing the article or securely attached to the article itself if not in a container, and with such tag or label bearing a permit number corresponding to the number of the permit issued for such article.

§ 301.94-5 Issuance and cancellation of certificates.

(a) A certificate shall be issued by an inspector for the interstate movement of a regulated article if such inspector:

(1)(i) Determines, if the article is a bee (usually the certificate would cover the movement of many bees), that it is not an Africanized honey bee, based on a microscopic inspection of a representative sample of the bees in the colony of origin and all other bees within 1,000 meters (3,281 feet) of the colony of origin, and has further determined that the bee is to be moved in a bee-proof container, or enclosed by a covering adequate to prevent access by bees (such as canvas, plastic, or closely woven cloth);

(ii) Determines, if the article is fresh or frozen sperm, that it is not sperm from Africanized honey bees, based on a microscopic inspection of a representative sample of the bees in the colony of origin and all other bees within 1,000 meters (3,281 feet) of the colony of origin;

(iii) Determines, if the article is equipment, a container, or unprocessed comb, that the article does not contain any bees, based on a visual examination of the article, and further determines that the article is to be moved while in the quarantined area in a bee-proof container or enclosed by a covering adequate to prevent access by bees (such as canvas, plastic, or closely woven cloth); or

(iv) Determines, if the article is a vehicle, that it does not contain any bees, based on a visual examination of the vehicle, and further determines that the vehicle is to be moved while in the quarantined area with all portions of the vehicle that had been used for carrying regulated articles (other than fresh or frozen bee sperm) enclosed or covered by a covering adequate to prevent access by bees (such as canvas, plastic, or closely woven cloth); and

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[2] Requirements under all other applicable Federal domestic plant quarantines and regulations must also be met.

(2) Determines that it is to be moved in compliance with any additional emergency conditions necessary to prevent the spread of the Africanized honey bee pursuant to section 105 of the Federal Plant Pest Act (7 U.S.C., 150dd);[3] and

(3) Determines that it is eligible for unrestricted movement under all other Federal domestic plant quarantines and regulations applicable to such articles.

(b) Certificates for use for movement of regulated articles may be issued by an inspector or person engaged in the business of handling or moving regulated articles provided such person is operating under a compliance agreement. Any such person may execute and issue a certificate for the interstate movement of a regulated article if the inspector has made the determination that such article is otherwise eligible for a certificate in accordance with paragraph (a) of this section.

(c) Any certificate which has been issued or authorized may be withdrawn by an inspector, orally or in writing, if such inspector determines that the holder thereof has not complied with any conditions under the regulations for the use of such document. If the cancellation is oral, the decision and the reasons for the withdrawal shall be confirmed in writing as promptly as circumstances allow. Any person whose certificate has been withdrawn may appeal the decision in writing to the Deputy Administrator within ten (10) days after receiving the written notification of the withdrawal. The appeal shall state all of the facts and reasons upon which the person relies to show that the certificate was wrongfully withdrawn. The Deputy Administrator shall grant or deny the appeal, in writing, stating the reasons for such decision, as promptly as circumstances allow. If there is a conflict as to any material fact, a hearing shall be held to resolve such conflict. Rules of Practice concerning such a hearing will be adopted by the Deputy Administrator.

§ 301.94-6 Compliance agreement and cancellation thereof.

(a) Any person engaged in the business of handling or moving regulated articles may enter into a compliance agreement to facilitate the movement of regulated articles under this subpart.[4] The compliance agreement shall be a written agreement between a person engaged in such a business and Plant Protection and Quarantine, wherein the person agrees to comply with the provisions of this subpart and any conditions imposed pursuant thereto.

(b) Any conpliance agreement may be cancelled orally or in writing by the inspector who is supervising its enforcement whenever the inspector finds that such person has failed to comply with the provisions of this subpart or any conditions imposed pursuant thereto. If the cancellation is oral, the decision and the reasons therefor shall be confirmed in writing, as promptly as circumstances allow. Any person whose compliance agreement has been cancelled may appeal the decision, in writing, within ten (10) days after receiving written notification of the cancellation. The appeal shall state all of the facts and reasons upon which the person relies to show that the compliance agreement was wrongfully cancelled. The Deputy Administrator shall grant or deny the appeal, in writing, stating the reasons for such decision, as promptly as circumstances allow. If there is a conflict as to any material fact, a hearing shall be held to resolve such conflict. Rules of Practice concerning such a hearing will be adopted by the Deputy Administrator.

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[3] Section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd) provides, among other things, that the Secretary of Agriculture may, whenever he deems it necessary as an emergency measure in order to prevent the dissemination of any plant pest new to or not theretofore known to be widely prevalent or distributed within and throughout the United States, seize, quarantine, treat, apply other remedial measures to destroy, or otherwise dispose of, in such a manner as he deems appropriate, any product or article of any character whatsoever, or means of conveyance, which is moving into or through the United States or interstate, and which he has reason to believe is infested or infected by or contains any such plant pest, or which has moved into the United States, or interstate and which he has reason to believe was infested or infected by or contained any such plant pest at the time of such movement.

[4] Compliance Agreement forms are available without charge from the Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, Federal Building, Hyattsville, MD 20782, and from local offices of the Plant Protection and Quarantine. (Local offices are listed in telephone directories).

§ 301.94-7 Assembly and inspection of regulated articles.

(a) Any person (other than a person authorized to issue certificates under § 301.94-5), who desires to move interstate a regulated article accompained by a certificate shall, as far in advance as possible (should be no less than 48 hours before the desired movement), request an inspector[5] to take necessary action under this subpart prior to movement of the regulated article.

(b) Such article shall be assembled at such point and in such manner as the inspector designates as necessary to comply with the requirements of this subpart.

§ 301.94-8 Attachment and disposition of certificates.

(a) A certificate required for the interstate movement of a regulated article, at all times during such movement, shall be securely attached to the outside of the containers containing the regulated article, securely attached to the article itself if not in a container, or securely attached to the consignee's copy of the accompanying waybill or other shipping document: *Provided however*, that the requirements of this section may be met by attaching the certificate to the consignee's copy of the waybill or other shipping documents only if the regulated article is sufficiently described on the certificate or shipping document to identify such article.

(b) The certificate for the movement of a regulated article shall be furnished by the carrier to the consignee at the destination of the shipment.

§ 301.94-9 Costs and charges.

The service of the inspector shall be furnished without cost. The U.S. Department of Agriculture will not be responsible for any costs or charges incident to inspections or compliance with the provisions of the regulations in this subpart, other than for the services of the inspector.

PART 302—DISTRICT OF COLUMBIA; MOVEMENT OF PLANTS AND PLANT PRODUCTS

ORDER

Sec.
302.1 Movement of plants and plant products into and out of the District of Columbia.

RULES AND REGULATIONS

302.2 Definitions.
302.3 Unrestricted articles.
302.4 Requirements relating to nursery stock and other plants and plant products.
302.5 Shipments which fail to comply with regulations.
302.6 Certification of nursery stock and herbaceous perennial plants, bulbs, and roots.

AUTHORITY: Sec. 9, 37 Stat. 318, sec. 15, 41 Stat. 726; 7 U.S.C. 162, 167.

SOURCE: 24 FR 10776, Dec. 29, 1959, unless otherwise noted.

ORDER

§ 302.1 Movement of plants and plant products into and out of the District of Columbia.

The Secretary of Agriculture, as required by the Plant Quarantine Act of August 20, 1912, as amended (41 Stat. 726; 7 U. S. C. 167), does hereby order that no plants or plant products shall be moved into or out of the District of Columbia except in compliance with the rules and regulations supplemental hereto which are hereby promulgated: *Provided,* That certain plants or plant products may be exempted from the rules and regulations in this part by administrative instructions issued by the Deputy Administrator of the Plant Protection and Quarantine Programs when, in his judgment, such articles are considered innocuous as carriers of dangerous plant pests.

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[5] Inspectors are assigned to local offices of Plant Protection and Quarantine which are listed in telephone directories. Information concerning such local offices may also be obtained from the Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, Federal Building, Hyattsville, MD 20782.

RULES AND REGULATIONS

§ 302.2 Definitions.

For the purpose of the regulations in this part the following words, names, and terms shall be construed, respectively, to mean:

(a) *Nursery stock.* All trees, shrubs, and plants having a persistent woody stem, and parts thereof capable of propagation, except fruit pits and seeds, provided that foreign-grown seeds of woody plants, of palms, of Vicia (vetch, etc.) and of Lathyrus (sweet peas, etc.), are defined as nursery stock.

(b) *Herbaceous perennial plants, bulbs, and roots.* Plants whose roots persist 2 or more years but which lack persistent woody stems above the ground. This term includes fibrous-rooted perennials, such as strawberry plants and phlox; bulbs, such as narcissus and crocus; corms, such as gladiolus; tubers, such as dahlia; fleshy roots, such as peony; rhizomes, such as iris; and such greenhouse-grown plants as ferns, geraniums, orchids, etc.

(c) *Annual plants.* Plants grown from seed for bloom or food the same season and living only 1 year. This term includes such plants as cabbage, tomato, and aster.

(d) *Inspector.* Plant quarantine inspector of the United States Department of Agriculture.

(e) *Moved.* Offered for movement to or received for transportation by a common carrier or moved by any means whatever into or out of the District of Columbia.

(f) *Certificate.* A certificate showing that the nursery or premises from which the plants or plant products were taken were inspected within 1 year prior to the date of shipment and were found to be free from injurious insect pests and plant diseases, or that the plants or plant products were inspected prior to shipment and found to be free from injurious insect pests and plant diseases.

§ 302.3 Unrestricted articles.

No requirements as to certification or labeling are placed by the regulations in this part[1] on the entry into or movement out of the District of Columbia of (a) annual plants, cut flowers, or decorative plant material (such as branches and Christmas trees); (b) seeds, except certain foreign-grown seeds as defined in § 302.2(a); nor of (c) other plants and plant products not included in the definitions in § 302.2(a), (b). The requirements as to delivery of plant materials are stated in § 302.4(c).

§ 302.4 Requirements relating to nursery stock and other plants and plant products.

(a) *Certification and marking of nursery stock.* No nursery stock as defined in § 302.2 shall be moved into the District of Columbia unless a valid certificate signed by the State nursery or horticultural inspector of the State or Territory or country from which the stock is shipped is attached to the outside of each package or other container. Each package or other container shall in addition be plainly marked with the names and addresses of the consignor and consignee and with a statement showing the nature of the contents.

(b) *Marking of herbaceous perennials, bulbs, or roots.* No herbaceous perennial plants, bulbs, or roots, as defined in § 302.2, shall be moved into the District of Columbia unless the container thereof is plainly marked with the names and addresses of the consignor and consignee and with a statement showing the nature of the contents.[2]

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[1] Compliance with any special plant quarantine or restrictive order which may be applicable thereto is required. Information relative to such restrictions may be obtained from the Plant Protection and Quarantine Programs.

[2] Herbaceous plants of foreign origin must be marked in accordance with the provisions of § 319.37 of this chapter.

(c) *Delivery of plants and plant products.* (1) No nursery stock, herbaceous plants, bulbs, or roots, originating outside of the District of Columbia shall be delivered to the consignee in the District of Columbia by a common carrier or other person until such delivery is authorized by an inspector of the Plant Protection and Quarantine Programs.

(2) All nursery stock and herbaceous perennial plants, bulbs, and roots, annual plants, decorative plant material, and other plants and plant products, whether restricted or unrestricted, addressed to the United States Department of Agriculture, Washington, D.C., shall be delivered only at the Plant Inspection House of the Plant Protection and Quarantine Programs (Room 1127, Auditors Building, 14th Street and Independence Avenue SW).

[24 FR 10776, Dec. 29, 1959, as amended at 28 FR 5203, May 24, 1963; 36 FR 24917, Dec. 24, 1971]

§ 302.5 Shipments which fail to comply with regulations.

Plants and plant products shipped into the District of Columbia, which are found to be infected or infested with any plant pest or disease, or which have not been moved in full compliance with the regulations in this part, may be disposed of as authorized in the Plant Quarantine Act.

§ 302.6 Certification of nursery stock and herbaceous perennial plants, bulbs, and roots.

(a) No nursery stock, or herbaceous perennial plants, bulbs, or roots, as defined in § 302.2, shall be moved out of the District of Columbia unless a certificate or permit has been issued therefor by the Plant Protection and Quarantine Programs. Each package or other container of such plants, bulbs, or roots shall have such a certificate or permit attached to the outside thereof.

(b) A certificate or permit may be issued for the movement out of the District of Columbia of the nursery stock covered by this section, when it has been examined by an inspector and found apparently free from dangerous plant diseases and insects and when such shipment is found to comply in full with all Federal quarantine regulations.

(c)(1) Nursery stock, herbaceous perennial plants, bulbs, or roots, to be shipped out of the District of Columbia must be presented at the Plant Inspection House of the Plant Protection and Quarantine Programs (Room 1127, Auditors Building, 14th Street and Independence Avenue SW.) for inspection at the time of shipment unless otherwise authorized by an inspector.

(2) When large shipments are contemplated, arrangements may be made for inspection at other places by telephoning 447-2598, or writing the Plant Protection and Quarantine Programs.

(3) Application for inspection of articles the movement of which is restricted by quarantine regulations or other restrictive orders shall be made at a season of the year sufficiently in advance of the contemplated date of shipment to provide for compliance with regulations.

(d) No common carrier or other person shall accept for shipment or remove from the District of Columbia any nursery stock, herbaceous perennial plants, bulbs, or roots, unless the required certificate or permit has been issued and is securely attached to the outside of each container.

[24 FR 10776, Dec. 29, 1959, as amended at 28 FR 5203, May 24, 1963; 36 FR 24917, Dec. 24, 1971]

PART 318—HAWAIIAN AND TERRITORIAL QUARANTINE NOTICES

Subpart—Hawaiian Fruits and Vegetables

QUARANTINE

Sec.
318.13 Notice of quarantine.
318.13a Administrative instructions providing exemptions from specified requirements.

RULES AND REGULATIONS

318.13-1 Definitions.
318.13-2 Regulated articles.
318.13-3 Conditions of movement.
318.13-4 Conditions governing the issuance of certificates or limited permits.

Sec.
318.13-4a Administrative instructions authorizing the movement from Hawaii of frozen fruits and vegetables.
318.13-4b Administrative instructions prescribing methods of vapor-heat treatment of certain fruits and vegetables from Hawaii.
318.13-4c Administrative instructions approving methyl bromide fumigation as a condition for certification of tomatoes for movement from Hawaii.
318.13-4d Administrative instructions approving methyl bromide fumigation as a condition for certification of avocados for movement from Hawaii.
318.13-4e Administrative instructions approving a combination treatment of methyl bromide fumigation plus refrigeration as a condition for certification of avocados for movement from Hawaii.
318.13-4f Administrative instructions approving a double hot water dip treatment as a condition for certification of papayas ¼ ripe or less from Hawaii.
318.13-5 Application for inspection.
318.13-6 Type and marking of containers; certificate or limited permit to accompany shipment, exception.
318.13-7 Uncertified fruits, vegetables, and cut flowers, taken aboard ships, vessels, other surface craft, or aircraft.
318.13-8 Inspection of vessels.
318.13-9 Disinfection of vessels.
318.13-10 Inspection of aircraft.
318.13-11 Disinfection of aircraft.
318.13-12 Inspection of baggage and cargo.
318.13-13 Posting of warning notice and distribution of baggage declarations.
318.13-14 Shipments for experimental or other scientific purposes.
318.13-15 Parcel post inspection.
318.13-16 Costs and charges.
318.13-17 Cancellation of certificates, limited permits, or compliance agreements.

Subpart—Sweetpotatoes

318.30 Notice of quarantine.
318.30a Administrative instructions authorizing movement from Puerto Rico of certain sweet potatoes grown under specified conditions.

Subpart—Territorial Cotton, Cottonseed, and Cottonseed Products

QUARANTINE

318.47 Notice of quarantine.
318.47a Administrative instructions relating to Guam.

RULES AND REGULATIONS

318.47-1 Definitions.
318.47-2 Articles the movement of which is prohibited or regulated.
318.47-3 Conditions governing the issuance of certificates and permits.
318.47-4 Shipments by the Department of Agriculture.

Subpart—Fruits and Vegetables From Puerto Rico or Virgin Islands

QUARANTINE

318.58 Notice of quarantine.

RULES AND REGULATIONS

318.58-1 Definitions.
318.58-2 Products the movement of which is prohibited.
318.58-3 Products the movement of which is authorized.
318.58-3c Administrative instructions authorizing the movement from Puerto Rico of frozen fruits and vegetables.
318.58-4 Application for inspection.
318.58-5 Certification of shipments.
318.58-6 Marking of containers.
318.58-7 Products as ships' stores or in the possession of passengers and crew.
318.58-8 Inspection of vessels.
318.58-9 Disinfection of vessels.
318.58-10 Inspection of cargo.
318.58-11 Inspection of personal belongings.
318.58-12 Parcel post inspection.
318.58-13 Movement by the Department of Agriculture.
318.58-14 Special provisions for preflight inspection in Puerto Rico or the Virgin Islands of aircraft, cargo, etc.

Subpart—Sand, Soil, or Earth, With Plants From Territories and Districts

318.60 Notice of quarantine.

Subpart—Guam

QUARANTINE

318.82 Notice of quarantine.

REGULATIONS

318.82-1 Definitions.
318.82-2 Movement of regulated articles.
318.82-3 Costs.

AUTHORITY: Secs. 103, 106, 71 Stat. 32, 33, sec. 9, 37 Stat. 318; 7 U.S.C. 150bb, 150ee, 162. Interpret or apply sec. 8, 37 Stat. 318, as amended, secs. 10, 45; 7 U.S.C. 161; 29 FR 16210, as amended, unless otherwise noted.

SOURCE: 24 FR 10777, Dec. 29, 1959, unless otherwise noted.

Subpart—Hawaiian Fruits and Vegetables

QUARANTINE

§ 318.13 Notice of quarantine.

(a) Pursuant to section 8 of the Plant Quarantine Act of August 20, 1912, as amended (7 U.S.C. 161), and after public hearing, it has been determined that it is necessary to quarantine Hawaii to prevent the spread of dangerous plant diseases and insect infestations, including the Mediterranean fruit fly (Ceratitis capitata (Wied.)), the melon fly (Dacus cucurbitae Coq.), the oriental fruit fly (Dacus dorsalis Hendl.), green coffee scale (Coccus viridis (Green)), the bean pod borer (Maruca testulalis (Geyer)), the bean butterfly (Lampides boeticus (L.)), the Asiatic rice borer (Chilo suppressalis), the mango weevil (Sternochetus mangiferae (F.)), the Chinese rose beetle (Adoretus sinicus Burm.), and a cactus borer (Cactoblastis cactorum (Berg.)), which are new to or not widely prevalent or distributed within and throughout the United States, and Hawaii is therefore quarantined.

(b) No fruits or vegetables, in the raw or unprocessed state; cut flowers; rice straw; mango seeds; or cactus plants or parts thereof shall be shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved by any person from Hawaii into or through the continental United States, Guam, Puerto Rico, or the Virgin Islands of the United States, in manner or method or under conditions other than those prescribed in the regulations hereinafter made or amendments thereto: *Provided*, That whenever the Deputy Administrator of the Plant Protection and Quarantine Programs shall find that existing conditions as to the pest risk involved in the movement of any of the articles to which the regulations supplemental hereto apply, make it safe to modify, by making less stringent, the restrictions contained in any of such regulations, he shall publish such finding in administrative instructions specifying the manner in which the restrictions shall be made less stringent, whereupon such modification shall become effective; or he may, when the public interest will permit, with respect to the movement of any of such articles to Guam, upon request in specific cases and notification to the person making the request, authorize their certification under conditions, specified in the certificate to carry out the purposes of this subpart, that are less stringent than those contained in the regulations: *And provided, further*, That no restrictions are placed hereby on the movement of cactus plants from Hawaii to St. Croix, Virgin Islands of the United States, or on the movement of coconuts from Hawaii into or through the continental United States, Guam, Puerto Rico, or the Virgin Islands of the United States.

(c) This subpart leaves in full force and effect § 318.30 which restricts the movement from Hawaii, Puerto Rico, or the Virgin Islands of the United States into or through any other State or certain Territories or Districts of the United States of all varieties of sweetpotatoes (Ipomoea batatas Poir.). It also leaves in full force and effect § 318.60 which restricts the movement from Hawaii, Puerto Rico, or the Virgin Islands of the United States into or through any other State or certain Territories or Districts of the United States of sand, soil, or earth about the roots of plants.

(d) Regulations governing the movement of live plant pests designated in this section are contained in Part 330 of this chapter.

[28 FR 13280, Dec. 7, 1963, as amended at 33 FR 14621, Oct. 1, 1968; 36 FR 24917, Dec. 24, 1971]

§ 318.13a Administrative instructions providing exemptions from specified requirements.

(a) The following fruits, vegetables, and other products may be moved from Hawaii into or through Guam without certification or other restriction under this subpart:

(1) [Reserved]

(2) Cut flowers, as defined in § 318.13-1(c).

(3) All fruits and vegetables designated in § 318.13-2(b).

(4) Beets, rutabagas, and turnips; when without tops.

(b) Section 318.13-13 shall not apply with respect to the movement of surface or air traffic from Hawaii to Guam.

[33 FR 14621, Oct. 1, 1968]

RULES AND REGULATIONS

§ 318.13-1 Definitions.

For the purpose of the regulations in this subpart the following words, names, and terms shall be construed, respectively, to mean:

(a) *Plant pests.* The injurious insects and plant diseases referred to in § 318.13, in any stage of development.

(b) *Fruits and vegetables.* The more or less succulent portions of food plants, and parts thereof, in raw or unprocessed state, such as bananas, pineapples, potatoes, ginger roots, tomatoes, peppers, mellons, citrus, mangoes, etc.

(c) *Cut flowers.* Any cut blooms, fresh foliage customarily used in the florist trade, and dried decorative plant material.

(d) *Mango seeds.* Seeds of the fruit of mango (Mangifera spp.), fresh or dried.

(e) *Rice straw.* Stems or straw of rice (Oryza sativa), when used as packing material or for other purposes.

(f) *Inspector.* An inspector of the United States Department of Agriculture authorized by the Secretary of Agriculture to enforce the provisions of the Plant Quarantine Act.

(g) *Certificate.* A document signed by an inspector certifying that a particular ship, vessel, other surface craft, or aircraft, or any specified lot or shipment of fruits or vegetables or other plant materials, via baggage, parcel post, express, freight or other mode of transportation, has been inspected and found apparently free from articles the movement of which is prohibited by the quarantine and regulations in this subpart, and from the plant pests referred to in said quarantine; or that the lot or shipment is of such a nature that no danger of infestation or infection is involved; or that it has been treated in a manner to eliminate infestation. A certificate covering treated products must state the treatment applied.

(h) *Person.* This term shall be construed to include both the plural and the singular, as the case demands, and shall include corporations, companies, societies, and associations.

(i) *Moved (move and movement).* Shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved, directly or indirectly, from Hawaii into or through the continental United States, Guam, the Northern Mariana Islands, Puerto Rico, or the Virgin Islands of the United States. Local, intrastate movement is in no way affected by the regulations in this subpart. ("Move" and "movement" shall be construed accordingly.)

(j) *Disinfection (disinfect and disinfected).* The application to parts or all of a ship, vessel, other surface craft, or aircraft of a treatment that may be designated by the inspector as effective against such plant pests as may be present. ("Disinfect" and "disinfected" shall be construed accordingly.)

(k) *Cactus plants.* Any of various fleshy-stemmed plants of the botanical family Cactaceae.

(l) *Compliance agreement.* Any agreement to comply with stipulated conditions as prescribed under § 318.13-3(b) or § 318.13-4(b), executed by any person to facilitate the interstate movement of regulated articles under this subpart.

(m) *Limited permit.* A document issued by an inspector for the interstate movement of regulated articles to a specified destination for consumption, or limited utilization or processing, or treatment, in conformity with a compliance agreement.

(n) *Deputy Administrator.* The Deputy Administrator of the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or any officer or employee of the Plant Protection and Quarantine Programs to whom authority to act in his stead has been or may hereinafter be delegated.

(o) *United States.* The States, District of Columbia, Guam, Northern Mariana Islands, Puerto Rico, and the Virgin Islands of the United States.

[24 FR 10777, Dec. 29, 1959, as amended at 28 FR 13280, Dec. 7, 1963; 33 FR 14621, Oct. 1, 1968; 36 FR 24917, Dec. 24, 1971; 37 FR 10554, May 25, 1972; 45 FR 42242, June 24, 1980]

§ 318.13-2 Regulated articles.

(a) *Prohibited movement.* Fruits, vegetables, and other products specified in § 318.13, and not eligible for inspection and certification under § 318.13-4 or otherwise expressly authorized movement either in the regulations in this subpart or in administrative instructions issued by the Deputy Administrator of the Plant Protection and Quarantine Programs are prohibited movement.

(b) *Regulated movement.* The movement of the following fruits and vegetables from Hawaii is allowed throughout the year upon compliance with the regulations in this subpart:

Aechmea bracteata (Sw.) Griseb, fruit-bearing panicles.

Allium spp., such as chives, garlic, leek, onions, and shallot.

Arrowhead (Sagittaria sagittifolia).

Arrowroot (Maranta arundinacea).

Artichoke, globe (Cynara scolymus).

Artichoke, Jerusalem (Helianthus tuberosus).

Asparagus (Asparagus officinalis).

Bean sprouts, soy (Glycine hispida).

Bean sprouts, mungo (Phaseolus aureus).

Beets (Beta vulgaris).

Broccoli (Brassica aleracea (Botrytis group)).

Brussel sprouts (Brassica oleracera (Gemifera group)).

Burdock, great (Arctium lappa, Lappa major, L. edulis).

Butterbur (Petasites japonicus).

Cabbage (Brassica oleracea).

Cabbage, Chinese (Brassica pekinensis, B. chinensis).

Carrot (Daucus carota satira).

Cassava (Manihot sp.).

Cauliflower (Brassica oleracea [Botrytis group]).

Celery (Apium graveolens).

Chinese spinach (Amaranthus gangeticus).

Chrysanthemum, garland (Chrysanthemum coronarium).

Coriander (Coriandrum sativum).

Dandelion (Taraxacum officinale).

Dropwort, water (Oenanthe stolonifera).

Foxheads or Nipple fruits (Solanum mamosum).

Ginger bracts (Zingiber mioga).

Ginger root (Zingiber officinale).

Honewort (Cryptotaenia canadensis).

Jesuit's nut (Trapa bicornis, T. natans).

Kudzu (Pueraria thunbergiana).

Lettuce (Lactuca sativa)

Lily root (Nelumbium nucifera).

Mahogany fruit (Swietenia mahagoni (L.) Jacq.).

Mustard greens (Brassica spp).

Mugwort (Artemisia vulgaris).

Nightshade, Malabar (Bassella rubra).

Parsley (Petroselinum hortense).

Perilla (Perilla frutescens).

Pineapples (Ananas sativa), smooth Cayenne.

Pineapple hybrids 53-116, 59-433, D10, and D20 (Ananas Sativa).

Potato (Solanum tuberosum).

Radish greens (Raphanus sativus longipinnatus).

Radish, oriental (Raphanus sativus longipinnatus).

Rhubarb (Rheum rhaponticum).

Sausage fruit (Kigelia pinnata (Jacq.)).

Spinach (Spinacia oleracea).

Sweet corn (Zea mays).

Taro root, shoots and stalks (Colocasia antiqorum esculentum).

Turnips (Brassica rapa).

Watercress (Nasturtium officinale).

Waternut (waterchestnut) (Eleocharis dulcis (E. tuberosa) (Scirpus tuberosus)).

Wood rose (Ipomoea tuberosa L.).

Yam bean root (Pachyrhizus erosus).

Yams Dioscorea (spp.).

Provided, That additions of other fruits and vegetables may be made to the foregoing list of regulated articles by the Deputy Administrator of the Plant Protection and Quarantine Programs when he determines that such fruits or vegetables, either as ordinarily packed and shipped or after treatment, do not involve risk of spreading any of the plant pests designated in the foregoing quarantine, and when such findings have been made known in administrative instructions of the Deputy Administrator of the Plant Protection and Quarantine Programs.

[24 FR 10777, Dec. 29, 1959, as amended at 27 FR 8345, Aug. 22, 1962; 27 FR 8907, Sept. 7, 1962; 30 FR 5619, Apr. 21, 1965; 33 FR 14621, Oct. 1, 1968; 34 FR 4879, Mar. 6, 1969; 36 FR 24917, Dec. 24, 1971; 44 FR 10701, Feb. 23, 1979; 45 FR 42242, June 24, 1980]

§ 318.13-3 Conditions of movement.

(a) *To any designation.* Any regulated articles may be moved interstate from Hawaii in accordance with this subpart to any destination if (1) such movement is authorized by a valid certificate and is made in accordance with the conditions of any applicable compliance agreement, or (2) the articles are exempted from certificate or limited permit requirements by administrative instructions.

(b) *To restricted destinations.* Smooth Cayenne pineapples; fresh fruit cocktail; inflight baskets of fruit; and cut flowers as defined in § 318.13-1(c) (except cut blooms of gardenia, mauna loa, and jade vine, and leis thereof) may be moved interstate from Hawaii under limited permit, to a destination specified in the permit, directly from an establishment operated in accordance with the terms of a compliance agreement executed by the operator of the establishment, if the articles have not been exposed to infestation and they are not accompanied by any articles prohibited interstate movement under this subpart.

(c) *Segregation of certified articles.* Articles certified after treatment in accordance with § 318.13-4(b), taken aboard any ship, vessel, other surface craft, or aircraft in Hawaii must be segregated and protected in a manner as required by the inspector.

[33 FR 14621, Oct. 1, 1968]

§ 318.13-4 Conditions governing the issuance of certificates or limited permits.

Certificates or limited permits may be issued for the movement of articles allowed movement in accordance with the regulations in this subpart under the following conditions:

(a) *Certification on basis of inspection or nature of lot involved.* Fruits and vegetables designated in § 318.13-2(b) may be certified when they have been inspected by an inspector and found apparently free from infestation and infection, or without such inspection when the inspector determines that the lot for shipment is of such a nature that no danger of infestation or infection is involved.

(b) *Certification on basis of treatment.* Fruits, vegetables, and other products designated in § 318.13, which are not listed in § 318.13-2(b) and for which treatments may be approved by the Deputy Administrator of the Plant Protection and Quarantine Programs, may be certified if such treatments have been applied under the observation of an inspector in accordance with administratively approved procedure and if the articles were handled after such treatment in accordance with conditions prescribed in a compliance agreement executed by the applicant for the certificate or were handled after such treatment under such supervision of an inspector as the inspector may require. Any treatment that may be approved must be applied at the expense of the shipper, owner, or person in charge of such articles. The Department of Agriculture or its inspector will not be responsible for loss or damage resulting from any treatment prescribed or supervised.

(c) *Limited permits.* Limited permits may be issued by an inspector for the movement of noncertified regulated articles designated in § 318.13-3(b), to specified destinations for consumption, or limited utilization or processing, or treatment.

(d) *Compliance agreements.* As a condition of issuance of a limited permit, or a certificate under paragraph (b) of this section for the movement of regulated articles for which a compliance agreement is required, the person applying for the permit or certificate must sign a compliance agreement stipulating that he will use all such permits or certificates issued to him in accordance with the provisions thereof and of the compliance agreement; will maintain at his establishment such safeguards against the establishment and spread of infestation and infection and comply with such conditions as to the maintenance of identity, handling (including post treatment handling), and interstate movement of regulated articles under such permits or certificates and the cleaning and treatment of means of conveyance and containers used in such movement of the articles, as may be required by the inspector in each specific case to prevent the spread of infestation or infection; and will allow inspectors to inspect the establishment and operations thereof.

[33 FR 14622, Oct. 1, 1968, as amended at 36 FR 24917, Dec. 24, 1971]

§ 318.13-4a Administrative instructions authorizing the movement from Hawaii of frozen fruits and vegetables.

(a) The type of treatment designated in this part as freezing shall be one of the commercially acceptable methods that involves initial freezing at subzero temperatures and subsequent storage at not higher than 0° F., with a storage tolerance of plus 20° F. Such treatments are commonly known as quick freezing, sharp freezing, frozen-pack, or cold-pack. Any equivalent freezing method is also included in this designation.

(b) The Deputy Administrator of the Plant Protection and Quarantine Programs, pursuant to the authority contained in §§ 318.13-2(b) and 318.13-4(b), hereby approves the process of freezing as a treatment for all fruits and vegetables described in § 318.13, except as otherwise provided in paragraph (d) of this section. Such frozen fruits and vegetables may be certified for movement from Hawaii into or through any other Territory, State, or District of the United States.[1]

(c) The inspector in Hawaii shall determine that such fruits and vegetables are in a satisfactory frozen state before issuing a certificate. The inspector on the mainland will release the shipment on the basis of the certificate issued in Hawaii.

(d) The movement from Hawaii of frozen fruits and vegetables is not authorized when such fruits and vegetables are subject to attack, in the area of origin, by plant pests that may not, in the judgment of the Deputy Administrator of the Plant Protection and Quarantine Programs, be destroyed by freezing.

(e) Freezing of fruits and vegetables as authorized in this section is considered necessary for the elimination of pest risk, and no liability shall attach to the United States Department of Agriculture or to any officer or representative of that Department in the event of injury resulting to fruits or vegetables offered for movement in accordance with the instructions of this section.

§ 318.13-4b Administrative instructions prescribing methods of vapor-heat treatment of certain fruits and vegetables from Hawaii.

(a) *Approved vapor-heat methods of treatment.* (1) Approved vapor-heat treatment, in accordance with the following procedure, is hereby designated as an administratively approved procedure that meets the requirements for the certification, in accordance with § 318.13-4(b), of papayas, bell peppers, eggplants, pineapples (other than smooth Cayenne), Italian squash, and tomatoes for movement from Hawaii:

(i) In the approved vapor-heat treatment the fruits and vegetables are heated by saturated vapor at 110° F. which in condensing on the fruits and vegetables gives up its latent heat. This latent heat is essential in assuring mortality of eggs and larvae of the oriental fruit fly, the Mediterranean fruit fly and the melon fly, and in raising the temperature of the fruits and vegetables evenly and quickly so as to prevent damage to the treated products. In applying the treatment the saturated vapor is accompanied by a fine water mist and air admixture.

(ii) The fruits and vegetables are cooled immediately after treatment and no wax or paraffin, either dry or in solution, may be used until after the treatment has been completed. Vapor-heat treatments are approved only if the vapor conditions within the heat treating room, the manner of stacking the boxes containing the fruits and vegetables in the room, and all other conditions affecting the efficacy of the treatment are satisfactory to the supervising inspector, to assure mortality of eggs and larvae of the oriental fruit fly, the Mediterranean fruit fly, and the melon fly.

(iii) In applying this treatment, in accordance with these principles, the temperature of the fruits and vegetables shall be raised to 110° F., at the approximate center of the fruits and vegetables, within a period designated by the inspector, and shall be held at that level during the following 8¾ hours.

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[1] Applications for certificates to move frozen fruits and vegetables from Hawaii under this subpart may be made to Plant Protection and Quarantine Programs, P.O. Box 9067, Honolulu, Hawaii 96820.

(2) Approved vapor-heat treatment, in accordance with the following procedure, is hereby designated as an alternate administratively approved procedure that meets the requirements for the certification, in accordance with § 318.13–4(b), of papayas for movement from Hawaii:

(i) In the approved vapor-heat "quick run-up" treatment the papayas are heated by saturated vapor until the temperature at the approximate center of the fruit reaches a minimum of 117° F. The cooling and other conditions prescribed in paragraph (a)(1)(ii) of this section apply.

(ii) The conditioning of the papayas preparatory to the treatment, as provided in paragraph (e) of this section, shall be completed within a period designated by the inspector.

(3) The treatments provided for in paragraphs (a) (1) and (2) of this section must be conducted in a heat-treating room approved by the Plant Protection and Quarantine Programs and must be conducted under the supervision of an inspector of that Plant Protection and Quarantine Programs, who at all times shall have access to the fruits and vegetables while they are undergoing treatment.

(4) The Plant Protection and Quarantine Programs will approve only those rooms which are properly constructed and adequately equipped to handle and treat the fruit or vegetables, at locations acceptable to the inspector in areas where required supervision can be furnished. Hereafter no treating plant will be approved until it s equipped with a self-recording temperature and humidity indicator acceptable to the inspector.

(b) *Subsequent handling.* All handling in Hawaii subsequent to treatment of fruits and vegetables intended for shipment elsewhere in the United States must be carried out to meet requirements of and under the supervision of the inspector.

(c) *Costs.* All costs of treatment and prescribed post-treatment safeguards, other than the services of the supervising inspector during regularly assigned hours of duty and at the usual place of duty, shall, as required by § 318.13–4(b), be borne by the owner of the fruits or vegetables, or his representative.

(d) *Department not responsible for damage.* In the tests and experiments so far conducted, fruits and vegetables (other than eggplants) have not been injured and the results following treatment have been successful. It is however, emphasized that inexactness and carelessness in using the approved method of treatment may result in injury to the fruit and vegtables treated. In approving this treatment the United States Department of Agriculture does not accept responsibility for fruit or vegetable injury.

(e) *Conditioning.* (1) The treatments set forth in paragraph (a) of this section are in addition to any other procedure or practice that may be found by the shipper to be desirable to condition or otherwise handle fruits or vegetables that may be offered for treatment.

(2) Eggplants require conditioning before they will tolerate the approved vapor-heat treatment. Even when conditioned, darkening of their seeds usually occurs. In tests of eggplant tolerance to vapor-heat treatment, 6 to 8 hours conditioning at 110° F. and approximately 40 percent relative humidity before the prescribed 8¾-hour holding period has been found effective. This conditioning procedure or any other that the shipper has developed and found satisfactory may be used for eggplants at the shipper's risk.

(3) Papayas require conditioning before they will tolerate the approved vapor-heat "quick run-up" treatment and even then some injury may result. Any conditioning that the shipper has developed and found satisfactory may be used with the "quick run-up" treatment for papayas at the shipper's risk.

[24 FR 10777, Dec. 29, 1959. Redesignated at 50 FR 9788, Mar. 12, 1985]

§ 318.13-4c Administrative instructions approving methyl bromide fumigation as a condition for certification of tomatoes for movement from Hawaii.

The Deputy Administrator of the Plant Protection and Quarantine Programs hereby approves methyl bromide fumigation, applied in accordance with the provisions of this section, as a treatment for tomatoes from Hawaii. Tomatoes treated and handled as provided in this section may be certified for movement from Hawaii to other parts of the United States.

(a) *Approved fumigation.* (1) The approved fumigation shall consist of fumigation with methyl bromide at normal atmospheric pressure, in a fumigation chamber which has been approved for that purpose by the Plant Protection and Quarantine Programs. The dosage shall be applied at the rate of 2 pounds per 1,000 cubic feet for 3½ hours at 70° F. or above.

(2) Tomatoes to be fumigated may be individually wrapped in gas-permeable tissue paper and packed in standard slatted tomato lugs or containers similarly vented. The fumigation chamber shall not be loaded to more than two-thirds of its capacity. The 3½-hour exposure period shall begin when all the fumigant has been introduced into the chamber and volatilized. Good circulation above and below the load, and between individual containers, shall be provided as soon as the tomatoes are loaded in the chamber and shall continue during the full period of fumigation and until the tomatoes have been removed to a well-ventilated location.

(b) *Supervision of treatments and subsequent handling.* The treatment approved in this section and the subsequent handling of the tomatoes so treated must be under the supervision of a plant quarantine inspector of the Plant Protection and Quarantine Programs. Such treated tomatoes must be safeguarded against reinfestation during the period prior to movement from Hawaii in a manner satisfactory to the inspector. Certification of tomatoes for such movement will be made only upon compliance with the prescribed treatment and posttreatment safeguards.

(c) *Costs.* All costs of the treatments and prescribed posttreatment safeguards provided for in this section, other than the services of the supervising inspector during regularly assigned hours of duty and at the usual place of duty, shall, as required by § 318.13-4(b), be borne by the owner of the tomatoes, or his representative.

(d) *Department not responsible for damage.* (1) This treatment is recognized as one which may be marginal as to varietal tolerance of tomatoes and the owner or shipper is warned of possible injury. The Department of Agriculture and its inspectors assume no responsibility for any loss or damage resulting from any treatment prescribed or supervised.

(2) In test fumigations the following varieties of tomatoes indicated tolerance to the prescribed treatment when harvested early in the season and in the mature stage after some color development: Big Boy, Bounty, Break O Day, Burpee Hybrid, Earliana, Hawaii, Homestead, J. Moran, Kalohi, Kaulaii, Lanai, Marglobe, Maui, Niihau, N-46, Oahu, Pearson, Pritchard, Rutgers, San Malzano, Step 274, Step 278, Step 280, Step 281, Step 305, and Step 314. Varieties showing poor tolerance were Desert Pride, Kolea C. Manalucie, and Pennheart.

[27 FR 1551, Feb. 20, 1962, as amended at 36 FR 24917, Dec. 24, 1971. Redesignated at 50 FR 9788, Mar. 12, 1985]

§ 318.13-4d Administrative instructions approving methyl bromide fumigation as a condition for certification of avocados for movement from Hawaii.

The Deputy Administrator of the Plant Protection and Quarantine Programs hereby approves methyl bromide fumigation, applied in accordance with the provisions of this section, as a treatment for avocados from Hawaii. Avocados treated and handled as provided in this section may be certified for movement from Hawaii to other parts of the United States.

(a) *Approved fumigation.* (1) The approved fumigation shall consist of fumigation with methyl bromide at normal atmospheric pressure, in a fumigation chamber which has been approved for that purpose by the Plant

Protection and Quarantine Programs. The dosage shall be applied at the rate of 2 pounds per 1,000 cubic feet for 4 hours at 70° F. or above.

(2) Avocados to be fumigated must be arranged, in ventilated wooden boxes, not more than one layer deep and without packing material or wrappings. The fumigation chamber shall not be loaded to more than two-thirds of its capacity. The 4-hour exposure period shall begin when all the fumigant has been introduced into the chamber and volatilized. Good circulation above and below the load, and between individual containers, shall be provided as soon as the avocados are loaded in the chamber and shall continue during the full period of fumigation and until the avocados have been removed to a well-ventilated location.

(b) *Supervision of treatments and subsequent handling.* The treatment approved in this section and the subsequent handling of the avocados so treated must be under the supervision of a plant quarantine inspector of the Plant Protection and Quarantine Programs. Such treated avocados must be safeguarded against reinfestation during the period prior to movement from Hawaii in a manner satisfactory to the inspector. Certification of avocados for such movement will be made only upon compliance with the prescribed treatment and posttreatment safeguards.

(c) *Costs.* All costs of the treatments and prescribed posttreatment safeguards provided for in this section, other than the services of the supervising inspector during regularly assigned hours of duty and at the usual place of duty, shall, as required by § 318.13-4(b), be borne by the owner of the avocados, or his representative.

(d) *Department not responsible for damage.* (1) This treatment is recognized as one which may be marginal as to varietal tolerance of avocados and the owner or shipper is warned of possible injury. The Department of Agriculture and its inspectors assume no responsibility for any loss or damage resulting from any treatment prescribed or supervised.

(2) In test fumigations no injuries were observed in the varieties of Kashlan, Kahuluu, and Lehua; some superficial discoloration, masked by ripening, in Haas, Ilialu, Kanola, Linda, Nutmeg, Sato, Tumin, and Yamagata; pitting and skin scald in Beardslee, Booth, Frowe, Nabal, Waldin, and Zutano; and internal discoloration and decay lesions in Bacon, Fuerte, and Rincon varieties.

[27 FR 4805, May 22, 1962, as amended at 36 FR 24917, Dec. 24, 1971. Redesignated at 50 FR 9788, Mar. 12, 1985]

§ 318.13–4e Administrative instructions approving a combination treatment of methyl bromide fumigation plus refrigeration as a condition for certification of avocados for movement from Hawaii.

The Deputy Administrator of the Plant Protection and Quarantine Programs hereby approves methyl bromide fumigation followed by controlled refrigeration as a treatment for mature green avocados from Hawaii when applied in accordance with the provisions of this section. This treatment is specific for the Mediterranean fruit fly, the melon fly, and the oriental fruit fly. Avocados so treated and handled as provided in this section may be certified for movement from Hawaii to other parts of the United States.

(a) *Approved treatment.* The phases of the combination treatment shall consist of fumigation and aeration; and a precooling and refrigeration period.

(1) The fumigant shall be methyl bromide applied at normal atmospheric pressure in an enclosure which has been approved for that purpose by an inspector of the Plant Protection and Quarantine Programs. The dosage shall be 2 pounds per 1,000 cubic feet for 2½ hours at 70° F. or above. At the conclusion of the 2½-hour exposure period, the avocados shall be aerated for a minimum of 30 minutes. Avocados to be fumigated shall be restricted to fruit at the mature green stage of development and be arranged in ventilated wooden boxes, without packing material or wrappings. Fumigation chambers should not be loaded to more than two-thirds of their capacity. Tarpaulin enclosures should not be loaded to more than 80 percent of

their capacity. The 2½-hour exposure period shall begin when all the fumigant has been volatilized and introduced into the enclosure. Forced circulation above and below the load, and between individual containers, shall be provided as soon as the avocados are loaded in the chamber and shall continue during the full period of fumigation and until the avocados have been removed to a well ventilated location.

(2) The refrigerated phase of the treatment shall consist of refrigeration for seven days at 45° F. or below. Cooling of the fruit must begin within 24 hours following the fumigation. The refrigerated storage shall consist of 7 days at fruit pulp temperature of 45° F. or below. The time required to cool the pulp temperature to 45° F. or below may be included in the 7-day period provided the cooling is accomplished in 24 hours or less. Temperature sensors inserted in the avocados shall be used to determine when pulp temperatures have reached 45° F. or below.

(b) *Supervision of treatments and subsequent handling.* The treatment approved in this section and the subsequent handling of the avocados so treated must be conducted under the supervision of an inspector of the Plant Protection and Quarantine Programs. Such treated avocados must be safeguarded against reinfestation during the period prior to movement from Hawaii in a manner satisfactory to the inspector. Certification of avocados for such movement will be made only upon compliance with the prescribed treatment and posttreatment safeguards.

(c) *Costs.* All costs of treatment, required safeguards, and supervision of treatments by the inspector outside regular hours of duty shall be borne by the owner of the avocados or his representative.

(d) *Department not responsible for damage.* Although this treatment is recognized as one which is only slightly injurious to certain varieties of avocados in the mature green stage of development, the Department of Agriculture assumes no responsibility for any loss or damage resulting from any treatment prescribed or supervised. There has not been an opportunity to test the treatment on all varieties of avocados that may be offered for entry. It is recommended that the phytotoxicity of the treatment to the variety to be shipped be tested by the exporters in Hawaii or by means of treatment of test shipments sent to the mainland.

[35 FR 2503, Feb. 4, 1970, as amended at 36 FR 24917, Dec. 24, 1971. Redesignated at 50 FR 9788, Mar. 12, 1985]

§ 318.13–4f Administrative instructions approving a double hot water dip treatment as a condition for certification of papayas ¼ ripe or less from Hawaii.

(a) Papayas that are determined from measurements taken from an approved colorimeter to be ¼ ripe or less may be treated with the following double hot water dip if the treatment is completed within 18 hours of the papayas being picked and if the papayas are kept at an ambient temperature of 18.3 °C (65 °F) or above until treated: Papayas must be submerged in an approved hot water tank with 4 inches of water above the top layer of papayas and with the water heated to a temperature of 41 °C to 43 °C (107.6 °F to 109.4 °F) for 40 minutes. The temperature of the water must be attained within five minutes of dipping the papayas in the first hot water tank. Within three minutes after completion of the first hot water dip, the papayas must be transferred and submerged in a second approved hot water tank with 4 inches of water above the top layer of papayas and with the water heated to a temperature of 48 °C to 50 °C (118.2 °F to 121.8 °F) for 20 minutes. The temperature of the water must be attained within 3 minutes of dipping the papayas in the second hot water tank.

(b) A colorimeter will be approved for use if found by an inspector to be able to determine whether the papayas are ¼ ripe or less. A hot water tank will be approved for use if found by a inspector to be adequate to meet the requirements of this treatment.

(Secs. 8 and 9, 37 Stat. 318, as amended (7 U.S.C. 161, 162); secs. 105, 106, 71 Stat. 32, 33 (7 U.S.C. 150dd, 150ee); 7 CFR 2.17, 2.51, 371.2(c))

[49 FR 34197, Aug. 29, 1984, and 50 FR 8317, Mar. 1, 1985. Redesignated at 50 FR 9788, Mar. 12, 1985]

§ 318.13-5 Application for inspection.

Persons intending to move any articles that may be certified in accordance with the provisions of § 318.13-4 shall make application for inspection or treatment on forms provided for this purpose as far as possible in advance of the contemplated date of shipment. They will also be required to prepare, handle, and safeguard such articles from infestation or reinfestation, and to assemble them at such points as the inspector may designate, placing them so that inspection may be readily made. Blank forms[1] for use in making applications for inspections will be furnished free upon request to the U.S. Department of Agriculture, Plant Protection and Quarantine Programs, Honolulu, Hawaii.

[33 FR 14622, Oct. 1, 1968, as amended at 36 FR 24917, Dec. 24, 1971]

§ 318.13-6 Type and marking of containers; certificate or limited permit to accompany shipment, exception.

(a) *Containers.* Each container of articles for which a certificate or limited permit is required under the regulations in this subpart shall be new or of materials approved by an inspector and shall be plainly marked for identification purposes as required by the inspector, and, except as provided in paragraph (b), of this section, shall be accompanied by a certificate or limited permit issued in compliance with the regulations in this subpart. In the case of shipments consisting of regulated articles in more than one container or in bulk, the certificate or limited permit covering the lot shall be attached to or stamped on the accompanying waybill, manifest, or bill of lading.

(b) *Identification of precleared shipments.* Certificates or limited permits need not accompany regulated articles moving interstate from Hawaii as air cargo or containerized cargo on ships when (1) such articles have been inspected or treated and precleared in Hawaii under § 318.13-10, (2) the carrier has on file documentary evidence that a valid certificate or limited permit was issued to cover such movement, and (3) a notation of such documentation is made by the carrier on the waybill that accompanies the shipment.

[33 FR 14622, Oct. 1, 1968]

§ 318.13-7 Uncertified fruits, vegetables, and cut flowers taken aboard ships, vessels, other surface craft, or aircraft.

(a) *In the possession of passengers or crew members.* Small quantities of fruits, vegetables, and cut flowers, subject to the quarantine and regulations in this subpart, when loose and free of packing materials, may be taken aboard any ship, vessel, other surface craft, or aircraft by passengers or members of the crew without inspection and certification in Hawaii. However, if such articles so taken aboard, are not eligible for inspection and certification under § 318.13-4(a), they must be entirely consumed or disposed of before arrival within the territorial waters of the continental United States, Guam, Puerto Rico, or the Virgin Islands of the United States: *Provided,* That no such uncertified articles may be taken aboard any aircraft as baggage or otherwise, when such aircraft is to be inspected and certified before its departure from Hawaii in the manner set forth in § 318.13-10 of the regulations in this subpart.

(b) *As ship's stores or decorations.* Fruits, vegetables, and cut flowers subject to the quarantine and regulations in this subpart may be taken aboard a ship, vessel, or other surface craft, or aircraft in Hawaii without inspection or certification. Fruits, vegetables, and cut flowers that are so taken aboard such a carrier must be either (1) entirely consumed or removed from the ship, vessel, or other surface craft, or aircraft before arrival within the territorial waters of the continental United States, Guam, Puerto Rico, or the Virgin Islands of the United States; or (2) in the case of a surface carrier, retained aboard such carrier under seal or otherwise disposed of subject to safeguards equivalent to those imposed on other prohibited or restricted products by § 352.10 (b) and (c) of this chapter.

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[1] Form PQ-170.

[24 FR 10777, Dec. 29, 1959, as amended at 31 FR 999, Jan. 26, 1966]

§ 318.13-8 Inspection of vessels.

All ships, vessels, and other surface craft from Hawaii, upon coming within the territorial waters of the continental United States, Guam, Puerto Rico, or the Virgin Islands of the United States, shall be subject to examination by inspectors for the purpose of ascertaining by inspection whether any of the articles or plant pests prohibited movement by the quarantine and regulations in this subpart or Part 330 of this chapter are contained in such ships, vessels, or other surface craft, or in cargo containers in such craft, or whether there remains any infestation therefrom. Such inspection will be made at the discretion of the inspector, either in the stream or at a pier, wharf, or mole within the confines of any port in the United States, other than in Hawaii. If inspection is made in the stream, the ship, vessel, or other surface craft shall remain in the quarantine or inspection area until the inspector has notified the master or other responsible ship's officer, in writing, that further detention in quarantine for inspection purposes is not required. If inspection is made at a pier, wharf, or mole, the master or other responsible ship's officer shall not permit the unloading of any cargo, stores, baggage, or other personal belongings of the passengers and crew until he receives the written notification referred to above from the inspector. Inspection shall be made only between the hours of sunrise and sunset, and any ship, vessel, or other surface craft arriving after sunset shall remain at anchor in the quarantine or inspection area until inspection can be made on the following morning: *Provided*, That inspection between the hours of sunset and sunrise may be made when the inspector has been furnished advance information of the approximate hour of arrival, and the number of passengers carried, if any, and when facilities satisfactory to the inspector are provided both aboard the ship, vessel, or other surface craft and on the pier for adequate lighting and availability of stores, quarters, and baggage for inspection, as well as transportation to and from the ship, vessel, or other surface craft in the quarantine or inspection area, if necessary.

[33 FR 14622, Oct. 1, 1968]

§ 318.13-9 Disinfection of vessels.

Any ship, vessel, or other surface craft arriving from Hawaii at a port in the continental United States, Guam, Puerto Rico, or the Virgin Islands of the United States, which is found upon inspection to contain articles which are subject to the quarantine and regulations in this subpart infected or infested with any of the injurious insects designated in the quarantine or to be contaminated with any article or plant pest prohibited movement by said quarantine and regulations or Part 330 of this chapter shall be immediately disinfected by the person in charge or possession of such ship, vessel, or other surface craft under the supervision of an inspector and in the manner prescribed by him.

[33 FR 14622, Oct. 1, 1968]

§ 318.13-10 Inspection of aircraft.

All aircraft arriving from Hawaii at a port within the territorial limits of the continental United States, Guam, Puerto Rico, or the Virgin Islands of the United States shall be subject to examination by inspectors for the purpose of ascertaining by inspection if any article or plant pest the movement of which is prohibited by the quarantine and regulations in this subpart or Part 330 of this chapter is contained in any such aircraft, or if any infestation from such prohibited articles or pests remains. Except in the case of forced landings, all aircraft moving between Hawaii and the continental United States, Puerto Rico, or the Virgin Islands of the United States, shall, upon coming within the territorial limits of the continental United States, Puerto Rico, or said Virgin Islands, land at an airport of entry, unless permission to land elsewhere than at an airport of entry is first granted by the Commissioner of Customs, Washington, D.C., with concurrence of the Plant Protection and Quarantine Programs, and shall remain there until inspected and released by the inspector. No baggage, cargo, or other articles shall be removed from the aircraft until such removal has been authorized by an inspector: *Provided,* That in the case of forced landings by such aircraft, the aircraft commander or operator shall not allow any baggage, cargo, or other articles to be removed therefrom, unless such removal is necessary for purposes of safety or the preservation of life or property. As soon as practicable, the aircraft commander, or a member of the crew in charge, or the owner of the aircraft shall communicate with the nearest plant quarantine officer and make a full report of the circumstances of the flight and of the forced landing: *Provided further,* That aircraft proceeding from Hawaii to or through the continental United States, Puerto Rico, or the Virgin Islands of the United States may, at the discretion of an inspector, be inspected immediately prior to the departure of such aircraft from Hawaii in lieu of inspection at the port of arrival, and when such aircraft, its cargo, stores, and baggage and other personal effects of passengers and crew members have been inspected and found free of articles or plant pests, the movement of which is prohibited by the quarantine and regulations in this subpart or Part 300 of this chapter, the inspector shall issue a certificate to that effect for delivery to the pilot or person in charge of the aircraft as evidence for later presentation at the port of arrival that such inspection has been made.

[33 FR 14623, Oct. 1, 1968]

§ 318.13–11 Disinfection of aircraft.

Any aircraft arriving from Hawaii at a port in the continental United States, Guam, Puerto Rico, or the Virgin Islands of the United States, which is found upon inspection to contain articles subject to the quarantine and regulations in this subpart that are infested or infected with any of the injurious insects designated in § 318.13 or which is found to be contaminated with any articles or plant pests prohibited movement by said quarantine and regulations or Part 330 of this chapter shall be immediately disinfected by the person in charge or possession of such aircraft, under the supervision of an inspector and in the manner prescribed by him; and any aircraft found upon inspection pursuant to the second proviso in § 318.13–10 prior to its departure from Hawaii for a port in the continental United States, Puerto Rico, or the Virgin Islands of the United States, to contain or to be contaminated with any articles or plant pests as aforesaid, shall be disinfected by the person in charge or in possession of such aircraft, under the supervision of an inspector and in a manner prescribed by him, before it will qualify for the certificate referred to in the said second proviso, in § 318.13-10.

[33 FR 14623, Oct. 1, 1968]

§ 318.13–12 Inspection of baggage and cargo.

(a) *Baggage inspection.* All baggage and other personal effects of passengers and members of crews on ships, vessels, other surface craft or aircraft moving from Hawaii shall be subject to examination by an inspector to ascertain if they contain any of the articles or plant pests prohibited movement by the quarantine and regulations in this subpart or Part 330 of this chapter. Such baggage inspection shall be made, at the discretion of the inspector, on the dock or on the ship, vessel, other surface craft or aircraft while in a quarantine or inspection area, either at the port of departure in Hawaii or at the first or any subsequent port of arrival in the continental United States, Guam, Puerto Rico, or the Virgin Islands of the United States, and no baggage or other personal effects of passengers or crew members from Hawaii shall be released until said effects have been inspected and passed. Baggage inspections will not be performed until the person in charge or possession of the carrier ship, vessel, other surface craft, or aircraft provides sufficient space and adequate facilities thereon, or on piers or landing fields for such inspection.

(b) *Container inspection.* Inspectors may require that any box, bale, crate, bundle, package, trunk, bag, suitcase, or other container, carried as ships' stores, cargo, or otherwise, by any ship, vessel, other surface craft, or aircraft moving between Hawaii and the continental United States, Guam, Puerto Rico, or the Virgin Islands of the United States, be opened for inspection to determine whether any article or plant pest prohibited movement by the quarantine and regulations in this subpart or Part 330 of this chapter is present. If any such prohibited article, or any plant pest or any fruit or vegetable infested with plant pests, is found, the inspector may order the return of the article to the place of origin under safeguards satisfactory to him, or otherwise dispose of it, or such part thereof as in his judgment is necessary to comply with the quarantine and regulations in this subpart and Part 330 of this chapter, in accordance with section 10 of the Plant Quarantine Act and section 105 of the Federal Plant Pest Act (7 U.S.C. 164a, 150dd) and instructions issued by the Deputy Administrator of the Plant Protection and Quarantine Programs.

(c) *Cargo loading or unloading.* No cargo shall be loaded on or unloaded from any ship, vessel, other surface craft, or aircraft arriving from Hawaii at a port in the continental United States, Guam, Puerto Rico, or the Virgin Islands of the United States, either at the first or any subsequent port of arrival where passengers are disembarked, without authorization of the inspector in charge of the inspection of passengers' baggage.

[33 FR 14623, Oct. 1, 1968, as amended at 36 FR 24917, Dec. 24, 1971]

§ 318.13-13 Posting of warning notice and distribution of baggage declarations.

(a) Before any ship, vessel, other surface craft, or aircraft from Hawaii arrives within the boundaries of the continental United States, Guam, Puerto Rico, or the Virgin Islands of the United States, the master, or other responsible officer thereof, shall cause to be distributed to each adult passenger thereon a baggage declaration[2] to be furnished by the United States Department of Agriculture, calling attention to the provisions of the Plant Quarantine Act, and the quarantine and regulations in this subpart. These baggage declarations shall be executed and signed by the passengers and shall be collected and delivered by the master or other responsible officer of the ship, vessel, other surface craft, or aircraft, to the inspector on arrival at the quarantine or inspection area: *Provided,* That in the case of aircraft inspected and certified as set forth in the second proviso of § 318.13-10 no baggage declarations will be required.

(b) Every person owning or controlling any dock, harbor, or landing field in Hawaii from which ships, vessels, other surface craft, or aircraft leave for ports in the continental United States, Guam, Puerto Rico, or the Virgin Islands of the United States shall post, and keep posted at all times, in one or more conspicuous places in passenger waiting rooms on or in said dock, harbor, or landing field a warning notice directing attention to the quarantine and regulations in this subpart.[3] Every master, or other responsible officer of any ship, vessel, other surface craft, or aircraft leaving Hawaii destined to a port in the continental United States, Guam, Puerto Rico, or the Virgin Islands of the United States shall similarly post, and keep posted at all times, such a warning notice in the ship, vessel, other surface craft, or aircraft under his charge.

§ 318.13-14 Shipments for experimental or other scientific purposes.

Articles subject to the requirements of the regulations in this subpart may be moved under this subpart for experimental or other scientific purposes on such conditions and under such safeguards as may be prescribed by the Deputy Administrator of the Plant Protection and Quarantine Programs to carry out the purposes of this subpart. The container or, if there is none, the article itself shall bear, securely attached to the outside thereof, an identifying tag from the Plant Protection and Quarantine Programs.

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[2] Form No. PPQ 232.

[3] An acceptable warning notice appears on Form PPQ-232.

§ 318.13-15 Parcel post inspection.

Inspectors are authorized in accordance with the postal laws and regulations and in cooperation with employees of the U.S. Post Office Department, to inspect parcel post packages placed in the mails in Hawaii and destined to other parts of the United States, to determine whether such packages contain fruits, vegetables, or other regulated articles, the movement of which is not authorized under this subpart, to examine such articles for plant pests, and to notify the postmaster in writing of any violation of this subpart or Part 330 of this chapter in connection therewith.

[33 FR 14623, Oct. 1, 1968]

§ 318.13-16 Costs and charges.

Services of the inspector during regularly assigned hours of duty at the usual places of duty shall be furnished without cost to the one requesting such services. The Plant Protection and Quarantine Programs will not assume responsibility for any costs or charges, other than those indicated in this section, in connection with the inspection, treatment, conditioning, storage, forwarding, or any other operation of any character incidental to the physical movement of regulated articles or plant pests.

[33 FR 14623, Oct. 1, 1968, as amended at 36 FR 24917, Dec. 24, 1971]

§ 318.13-17 Cancellation of certificates, limited permits, or compliance agreements.

Any certificate, limited permit, or compliance agreement that has been issued in accordance with this subpart may be withdrawn or canceled by the Deputy Administrator, after notice and reasonable opportunity to present views has been accorded to the party to whom such document has been issued, if the Deputy Administrator determines that such party has failed to comply with any condition for the use of any such document imposed by this subpart.

[33 FR 14623, Oct. 1, 1968, as amended at 36 FR 24917, Dec. 24, 1971]

Subpart—Sweetpotatoes

§ 318.30 Notice of quarantine.

(a) The Administrator of the Animal and Plant Health Inspection Service has determined that it is necessary to quarantine Hawaii and Puerto Rico to prevent the spread to other parts of the United States of the sweetpotato scarabee (Euscepes postfasciatus Fairm.), and the sweetpotato stem borer (Omphisa anastomosalis Guen.), dangerous insect infestations new to and not widely prevalent or distributed within or throughout the United States, and that it is necessary also to quarantine the Virgin Islands of the United States to prevent the spread to other parts of the United States of the sweetpotato scarabee.

(b) Under the authority conferred by section 8 of the Plant Quarantine Act of August 20, 1912, as amended (7 U.S.C. 161), and after public hearing as required thereunder, the Administrator of the Animal and Plant Health Inspection Service therefore has quarantined Hawaii, Puerto Rico, and the Virgin Islands of the United States to prevent the spread of the sweetpotato scarabee (Euscepes postfasciatus Fairm.) and the sweetpotato stem borer (Omphisa anastomosalis Guen.).

(c) No variety of sweetpotatoes (Ipomoea batatas Poir.) shall be shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved by any person from Hawaii, Puerto Rico, or the Virgin Islands of the United States into or through any other State, Territory, or District of the United States: *Provided*, That the prohibitions of this section shall not prohibit the movement of sweetpotatoes in either direction between Puerto Rico and the Virgin Islands of the United States; nor prohibit the movement of sweetpotatoes by the United States Department of Agriculture for scientific or experimental purposes; nor prohibit the movement from Puerto Rico or the Virgin Islands of the United States of sweetpotatoes which the Deputy Administrator of the Plant Protection and Quarantine Programs may authorize under permit or certificate to such northern ports of the United States as he may designate in such permit or certificate, conditioned upon the fumigation of such sweetpotatoes under the supervision of an inspector of said Programs either in Puerto Rico or the Virgin Islands of the United States or at the designated port of arrival, in a manner approved by the said Deputy Administrator; nor prohibit the movement from Hawaii of sweetpotatoes which the Deputy Administrator of the Plant Protection and Quarantine Programs may authorize under permit or certificate to such ports of the United States as he may designate in such permit or certificate, conditioned upon the fumigation of such sweetpotatoes in Hawaii under the supervision of an inspector of said Programs, in a manner approved by the said Deputy Administrator: *Provided, further,* That whenever the Deputy Administrator of the Plant Protection and Quarantine Programs shall find that facts exist as to pest risk involved in the movement of sweetpotatoes or any classification thereof to which this subpart applies, making it safe to modify, by making less stringent, the requirements contained therein, he shall set forth and publish such finding in administrative instructions specifying the manner in which the subpart should be made less stringent, whereupon such modification shall become effective.

(d) As used in this section, the term "State, Territory, or District of the United States" means "Guam, Hawaii, Puerto Rico, the Virgin Islands of the United States, or the continental United States."

[24 FR 10777, Dec. 29, 1959, as amended at 36 FR 24917, Dec. 24, 1971; 37 FR 10554, May 25, 1972]

§ 318.30a Administrative instructions authorizing movement from Puerto Rico of certain sweetpotatoes grown under specified conditions.

The Deputy Administrator of the Plant Protection and Quarantine Programs hereby finds that facts exist as to the pest risk involved in the movement of sweetpotatoes to which § 318.30 applies, making it safe to modify by making less stringent the requirements of § 318.30 with respect to washed sweetpotatoes graded by inspectors of the Commonwealth of Puerto Rico in accordance with Puerto Rican standards which do not provide a tolerance for insect infestation or evidence of insect injury and found by such inspectors to comply with such standards. Hereafter, in addition to movement authorized under § 318.30(c), such sweetpotatoes will be eligible for inspection by a Branch inspector to determine whether they are free of the sweetpotato scarabee (Euscepes postfasciatus Fairm.) and for certification for movement from Puerto Rico to Baltimore, Maryland, and Atlantic Coast ports north thereof if found free of such insect, provided the sweetpotatoes are certified by an inspector of the Commonwealth of Puerto Rico as having been so washed and graded and as having been grown in accordance with the following procedures:

(a) Fields in which the sweetpotatoes have been grown shall have been given a preplanting treatment with an approved soil insecticide.

(b) Before planting in such treated fields, the sweetpotoato draws and vine cuttings shall have been dipped in an approved insecticidal solution.

(c) During the growing season an approved insecticide shall have been applied to the vines at prescribed intervals.

The sweetpotatoes shall be inspected by an inspector of the Plant Protection and Quarantine Programs prior to shipment from Puerto Rico.

Subpart—Territorial Cotton, Cottonseed, and Cottonseed Products

QUARANTINE

§ 318.47 Notice of quarantine.

(a) The Secretary of Agriculture having previously quarantined Hawaii and Puerto Rico on account of the pink bollworm of cotton (Pectinophora gossypiella Saunders) and the cotton blister mite (Eriophyes gossypii Banks), insect pests new to and not widely prevalent or distributed within and throughout the United States, now determines that it is necessary to extend the quarantine to prevent the spread of these insects from the Virgin Islands of the United States, where they are known to occur.

(b) Under authority conferred by section 8 of the Plant Quarantine Act of August 20, 1912, as amended (7 U.S.C. 161) and having given the public hearing required thereunder, the Secretary of Agriculture hereby quarantines the Territory of Hawaii, Puerto Rico, and the Virgin Islands of the United States to prevent the spread of the said insect pests.

(c) All parts and products of plants of the genus Gossypium, such as seeds including seed cotton; cottonseed; cotton lint, linters, and other forms of cotton fiber; cottonseed hulls, cake, meal, and other cottonseed products, except oil; cotton waste; and all other unmanufactured parts of cotton plants; and all second-hand burlap and other fabric which have been used, or are of the kinds ordinarily used, for wrapping or containing cotton, are hereby prohibited movement from the Hawaii, Puerto Rico, and the Virgin Islands of the United States into or through any other State, Territory or District of the United States, in manner or method or under conditions other than those prescribed in the regulations hereinafter made or amendments thereto: *Provided*, That whenever the Deputy Administrator of the Plant Protection and Quarantine Programs shall find that existing conditions as to the pest risk involved in the movement of the articles to which the regulations supplemental hereto apply, make it safe to modify, by making less stringent, the restrictions contained in any such regulations, he shall set forth and publish such findings in administrative instructions, specifying the manner in which the regulations should be made less stringent, whereupon such modification shall become effective.

(d) As used in this subpart, unless the context otherwise requires, the term "State, Territory, or District of the United States" means State, the District of Columbia, Alaska, Guam, Hawaii, Puerto Rico, or the Virgin Islands of the United States.

§ 318.47a Administrative instructions relating to Guam.

The plants, products and articles specified in § 318.47(c) may be moved from Hawaii into or through Guam without restriction under this subpart.

RULES AND REGULATIONS

CROSS REFERENCE: For rules and regulations governing the importation of cotton and cottonseed products into the United States, see §§ 319.8 to 319.8-27 of this chapter.

§ 318.47-1 Definitions.

For the purpose of the regulations in this subpart the following words, names, and terms shall be construed, respectively, to mean:

(a) *Cotton.* Parts and products of plants of the genus Gossypium, including seed cotton; cottonseed; cotton lint, linters and other forms of cotton fiber; cottonseed hulls, cake, meal, and other cottonseed products, except oil; cotton waste; and all other unmanufactured parts of cotton plants; and second-hand burlap and other fabric which have been used, or are of the kinds ordinarily used, for wrapping or containing cotton.

(b) *Seed cotton.* The unginned lint and seed admixture, just as it is picked from the cotton boll.

(c) *Cottonseed.* The seed of the cotton plant, either separated from the lint or as a component part of seed cotton.

(d) *Lint.* All forms of raw or unmanufactured ginned cotton, either baled or unbaled, including all cotton fiber, except linters, which has not been woven or spun, or otherwise manufactured.

(e) *Linters.* All forms of unmanufactured cotton fiber separated from cottonseed after the lint has been removed, including that form referred to as "hull fiber."

(f) *Waste.* All forms of cotton waste derived from the manufacture of cotton lint, in any form or under any trade designation, including gin waste; and waste products derived from the milling of cottonseed.

(g) *Seedy waste.* Picker waste, gin waste, and oil mill waste, and any other cotton by-products capable of carrying a high percentage of cottonseed.

(h) *Clean waste.* Wastes derived from the processing of lint in machines after the card machine, including card strips but not card fly.

(i) *Bale covers.* Second-hand burlap and other second-hand fabric by whatever trade designation, which have been used, or are of the kinds ordinarily used, for wrapping or otherwise containing cotton. Burlap and other fabric of the kinds ordinarily used for wrapping cotton, when new or unused, are excluded from this definition.

(j) *Certificate (certification, certified).* A type of authorization, evidencing freedom from infestation, issued by the Deputy Administrator of the Plant Protection and Quarantine Programs to allow the movement of lint, linters, waste, seed cotton, cottonseed, cottonseed hulls, cake, and meal, and bale covers in accordance with the regulations in this subpart. "Certification" and "certified" shall be construed accordingly.

(k) *Permit.* A type of general authorization issued by the Deputy Administrator of the Plant Protection and Quarantine Programs to allow the movement of lint, linters, waste other than seedy waste, cottonseed cake and meal, and bale covers in accordance with the regulations in this subpart.

(l) *Fumigated.* Fumigated under the supervision of an inspector of the Plant Protection and Quarantine Programs in a fumigation plant approved by the Deputy Administrator of said Programs and in accordance with methods approved by him.

(m) *Moved (movement, move).* Shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved, directly or indirectly, from Hawaii, Puerto Rico, or the Virgin Islands of the United States, into or through any other State, Territory, or District of the United States. "Movement" and "move" shall be construed accordingly.

§ 318.47-2 Articles the movement of which is prohibited or regulated.

(a) *Articles prohibited movement.* The movement of seed cotton, cottonseed, and seedy waste, when unfumigated, is prohibited except as provided in § 318.47-3(b)(2).

(b) *Articles the movement of which is regulated.* Lint; linters; waste; seed cotton; cottonseed; cottonseed hulls, cake, and meal; and bale covers may be moved upon compliance with the conditions prescribed in § 318.47-3.

§ 318.47-3 Conditions governing the issuance of certificates and permits.

(a) *Fumigated lint; linters; waste; seed cotton; cottonseed; cottonseed hulls, cake, and meal; and bale covers.* Lint; linters; waste; seed cotton; cottonseed; cottonseed hulls, cake, and meal; and bale covers, fumigated in the Territory or District of origin and so certified, are allowed unrestricted movement to any port.

(b) *Unfumigated lint, linters, waste, and bale covers.* (1) Unfumigated Hawaiian, Puerto Rican, or Virgin Islands of the United States lint, linters, waste other than seedy waste, and bale covers will be allowed to move under permit, by all-water route, for entry only at the ports of Norfolk, Baltimore, New York, Boston, San Francisco, and Seattle, or other port of arrival designated in the permit, and at such designated port of arrival shall become subject to the regulations governing the handling of cotton imported from foreign countries.

(2) Fumigation may be waived and certificates issued for lint, linters, and waste which have been determined by an inspector of the Plant Protection and Quarantine Programs to have been so manufactured or processed by bleaching, dyeing, or other means, as to have removed all seeds, or to have destroyed all insect life therein.

(c) *Cottonseed cake and meal.* (1) Cottonseed cake and meal which have been inspected in the Territory or District of origin and certified by an inspector of the Plant Protection and Quarantine Programs as being free from contamination with whole, uncrushed cottonseed, will be allowed unrestricted movement to any port.

(2) Hawaiian, Puerto Rican, and Virgin Islands of the United States cottonseed cake and meal, when neither fumigated nor inspected in ac-

cordance with the provisions of this section, will be allowed entry under permit through any port at which the services of an inspector are available, subject to examination by an inspector for freedom from contamination with uncrushed cottonseed. If found to be free from such contamination, the cottonseed cake or meal may be released from further entry restrictions. Cottonseed cake or meal found to be contaminated shall be refused entry or subjected as a condition of entry and release to such safeguards as may be prescribed by the inspector from such administratively approved methods as will, in his judgment, be necessary to eliminate infestations of the pink bollworm or cotton blister mite.

§ 318.47-4 Shipments by the Department of Agriculture.

Cotton may be moved by the Department of Agriculture for experimental or scientific purposes under such conditions as may be prescribed by the Deputy Administrator of the Plant Protection and Quarantine Programs, which conditions may include clearance through the New Crops Research Branch of the Plant Science Research Division, Agricultural Research Service.

Subpart—Fruits and Vegetables From Puerto Rico or Virgin Islands

QUARANTINE

§ 318.58 Notice of quarantine.

(a) Pursuant to section 8 of the Plant Quarantine Act of August 20, 1912, as amended (7 U.S.C. 161), and after public hearing, it has been determined that it is necessary to quarantine Puerto Rico and the Virgin Islands of the United States to prevent the spread of certain dangerous insect infestations not heretofore widely prevalent or distributed within and throughout the United States, including the fruit flies, Anastrepha suspensa (Loew), and A. mombinpraeoptans Sein, and the bean pod borer, Maruca testulalis (Geyer), and that it is necessary to quarantine the said Virgin Islands to prevent the spread of a cactus borer, Cactoblastis cactorum (Berg.), not heretofore widely prevalent or distributed within and throughout the United States; and Puerto Rico and the said Virgin Islands are therefore quarantined.

(b) No fruits or vegetables, in the raw or unprocessed state, shall be shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved, by any person from Puerto Rico or the Virgin Islands of the United States into or through Guam, Hawaii, or the continental United States, and no cactus plants or parts thereof shall be shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved, by any person from the Virgin Islands of the United States into or through Guam, Puerto Rico, or the continental United States; in any manner or method or under conditions other than those prescribed in the regulations hereinafter made or amendments thereto: *Provided*, That whenever the Deputy Administrator of the Plant Protection and Quarantine Programs shall find that existing conditions as to the pest risk involved in the movement of any of the articles to which the regulations supplemental hereto apply, make it safe to modify, by making less stringent, the restrictions contained in any of such regulations, he shall publish such finding in administrative instructions, specifying the manner in which the restrictions shall be made less stringent, whereupon such modification shall become effective; or he may, when the public interest will permit, with respect to the movement of any of such articles to Guam, upon request in specific cases and notification to the person making the request, authorize their certification under conditions, specified in the certificate to carry out the purposes of this subpart, that are less stringent than those contained in the regulations.

(c) No restrictions are placed hereby on the movement of fruits or vegetables in either direction between Puerto Rico and the Virgin Islands of the United States.

(d) This subpart leaves in full force and effect § 318.30 which restricts the movement from Hawaii, Puerto Rico, or the Virgin Islands of the United States into or through any other State or certain Territories or Districts of the United States of all varieties of sweetpotatoes (Ipomoea batatas Poir.). It also leaves in full force and effect § 318.60 which restricts the movement from Hawaii, Puerto Rico, or the Virgin Islands of the United States into or through any other State or certain Territories or Districts of the United States of sand, soil, or earth about the roots of plants.

(e) Regulations governing the movement of live plant pests designated in this section are contained in Part 330 of this chapter.

[28 FR 13281, Dec. 7, 1963, as amended at 30 FR 748, Jan. 23, 1965]

RULES AND REGULATIONS

§ 318.58–1 Definitions.

(a) *Fruits and vegetables.* The edible, more or less succulent, portions of food plants in the raw or unprocessed state, such as bananas, oranges, grapefruit, pineapples, tomatoes, peppers, lettuce, etc.

(b) *Plant litter.* Leaves, twigs, or other portions of plants, or plant remains or rubbish as distinguished from clean fruits and vegetables, or other commercial articles.

(c) *Inspector.* An inspector of the Plant Protection and Quarantine Programs, United States Department of Agriculture.

(d) *Moved (movement and move).* Shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved by any person as specified in § 318.58(b) with respect to fruits and vegetables and with respect to fruits and vegetables and with respect to cactus plants and parts thereof. "Movement" and "move" shall be construed accordingly.

(e) *Cactus plants.* Any of various fleshy-stemmed plants of the botanical family Cactaceae.

[24 FR 10777, Dec. 29, 1959, as amended at 28 FR 13281, Dec. 7, 1963; 36 FR 24917, Dec. 24, 1971]

§ 318.58–2 Products the movement of which is prohibited.

Movement of fruits of mango (Mangifera spp.), jobo (Spondias spp.), guava (Psidium guajava), and pomarrosa or rose apple (Eugenia Jambos), and all other products for which movement is not authorized in § 318.58–3, is prohibited: *Provided,* That any product the movement of which is thus prohibited may be removed from a prohibited status and included in the list for which movement is authorized in § 318.58–3, by administrative instructions issued by the Deputy Administrator of the Plant Protection and Quarantine Programs when evidence satisfactory to him is obtained that the movement of the product in question, either subject to a specified treatment, or as packed and shipped, will not result in the dissemination of injurious insects.

[24 FR 10777, Dec. 29, 1959, as amended at 28 FR 13281, Dec. 7, 1963; 36 FR 24917, Dec. 24, 1971]

§ 318.58–3 Products the movement of which is authorized.[1]

(a) Subject to the conditions provided in this section, and to any treatment prescribed by the Deputy Administrator of the Plant Protection and Quarantine Programs, the following fruits and vegetables may be moved when they are free from plant litter, are marked in compliance with § 318.58–6, and have been inspected by an inspector and certified by him to be free from injurious insect infestation (including the West Indian fruitfly and the bean pod borer) or to have been given prescribed treatment:

Citrus fruits (orange, grapefruit, lemon, citron, and lime);

Corn (sweet corn on cob);

Peppers;

String beans, lima beans, faba beans, and pigeon peas, in the pod, and fresh okra. However, products within this subparagraph will be certified for movement to Pacific Coast ports or to Atlantic Coast ports south of Baltimore, Maryland, only when they have been treated as prescribed by the Deputy Administrator of the Plant Protection and Quarantine Programs, and under the supervision of an inspector. Such products may be certified for movement to Baltimore, Maryland, and Atlantic Coast ports north thereof without such treatment, but untreated fresh okra may be so certified only for immediate processing or consumption in these northern areas.

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[1] The following are not considered raw or unprocessed fruits and vegetables within the meaning of § 318.58: Coconuts, breadnuts, dried or cured medicinal plants and herbs, annatto seeds (achiote), gourd (higuero), cannonball fruit (Couroupita guianensis) and cut flowers.

(b) The following fruits and vegetables are subject to inspection, either in the field or when presented for shipment, as the inspector may require, but unless found by him to be infested shall be free to move without certification, marking, treatment, or other requirements of this subpart, except that they must be free from plant litter and soil: *Provided*, That if the inspector shall find any field, grove, lot, shipment, or container of such fruits and vegetables infested with injurious insects, he shall notify the owner or person in charge, in writing, of the existence of the infestation and the extent thereof, and thereafter movement of the fruit or vegetable so specified shall be prohibited while the infestation persists, unless in the judgment of the inspector movement may be safely allowed subject to certification after having been given an approved treatment, or after sorting, conditioning, or other effective safeguard measures:

Algarroba pods (Hymenaea courbaril).
Allium spp. (onion, chive, garlic, leek, scallion, shallot).
Anise (Pimpinella anisum).
Apio, celery root (Arracacia xanthorrhiza).
Arrowroot (Maranta arundinacea).
Artichoke, Jerusalem (Helianthus tuberosus).
Asparagus.
Avocado.
Balsamapple, balsam-pear (Momordica balsamina; M. charantia).
Banana and plantain (fruit).
Banana leaves (fresh, without stalks or midrib).
Beans (fresh shelled lima and faba beans).
Beet, including Swiss chard.
Brassica oleracea (cabbage, cauliflower, Brussels sprouts, broccoli, collard, kale, kohlrabi, Savoy).
Breadfruit, jackfruit (Artocarpus spp.).
Cacao bean (Theobroma cacao).
Carrot.
Celery.
Chayote (Sechium edule).
Chicory, endive (Cichorium intybus).
Citrus fruit (citron, grapefruit, lemon, lime, and orange) destined for ports on the Atlantic seaboard north of and including Baltimore.
Cucumbers, including Angola cucumber (Sicania odorata).
Culantro, coriander (Eryngium foetidum; Coriandrum sativum).
Dasheen, malanga, taro (Colocasia and Caladium spp.).
Eggplant.
Fennel.
Ginger root (Zingiber officinale).
Horseradish (Armoracia).
Kudzu (Pueraria thunbergiana).
Lerens, sweet corn root (Calathea allouia).
Lettuce.
Mangosteen (Garcinia mangostana).
Mustard greens.
Palm hearts.
Papaya, lechosa (Carica papaya).
Parsley.
Parsnip.
Peas (in pod) (Pissum sativum).
Pigeonpea (fresh shelled).
Pineapple.
Potato.
Quenepa (Melicocca bijuga).
Radish.
Rhubarb.
Rutabaga.
Spinach.
Squash, pumpkin, watermelon, vegetable-marrow, cantaloup, calabaza.
Strawberry.
Tamarind beanpod (Tamarindus indica).
Tomato.
Turnip.
Watercress.
Waterlily root, lotus root (Nelumbium nelumbo).
Yam, name (Dioscorea spp.).
Yautia, tanier (Xanthosoma spp.).
Yuca, cassava (Manihot esculenta).

(c) Cactus plants or parts thereof from the Virgin Islands of the United States may be moved to Guam, Puerto Rico, or the continental United States when they have been given an approved treatment and are so certified by an inspector.

[24 FR 10777, Dec. 29, 1959, as amended at 28 FR 13281, Dec. 7, 1963; 30 FR 749, Jan. 23, 1965; 36 FR 24917, Dec. 24, 1971]

§ 318.58-3c Administrative instructions authorizing the movement from Puerto Rico of frozen fruits and vegetables.

(a) The type of treatment designated in this subpart as freezing shall be one of the commercially-acceptable methods that involves initial freezing at subzero temperatures and subsequent storage at not higher than 0° F., with a storage tolerance of plus 20° F. Such treatments are commonly known as quick freezing, sharp freezing, frozen-pack, or cold-pack. Any equivalent freezing method is also included in this designation.

(b) The Deputy Administrator of the Plant Protection and Quarantine Programs is satisfied that the movement of all fruits and vegetables specified in § 318.58-2, when frozen, will not result in the dissemination of injurious insects. Accordingly, pursuant to the authority contained in the proviso of § 318.58-2, all fruits and vegetables specified therein, when frozen, are hereby removed from a prohibited status and are included in the list for which movement from Puerto Rico into or through any other State, Territory, or District is authorized in § 318.58-3. Freezing is hereby prescribed as an approved treatment meeting the treatment requirements for the movement of fruits and vegetables specified in § 318.58-3.[1]

(c) The inspector in Puerto Rico shall determine that such fruits and vegetables are in a satisfactory frozen state before issuing a certificate. The inspector on the mainland will release the shipment on the basis of the certificate issued in Puerto Rico.

(d) The movement from Puerto Rico of frozen fruits and vegetables is not authorized when such fruits and vegetables are subject to attack, in the area of origin, by plant pests that may not, in the judgment of the Deputy Administrator of the Plant Protection and Quarantine Programs, be destroyed by freezing.

(e) Freezing of fruits and vegetables as authorized in these instructions is considered necessary for the elimination of pest risk, and no liability shall attach to the United States Department of Agriculture or to any officer or representative of that Department in the event of injury resulting to fruits or vegetables offered for movement in accordance with these instructions.

§ 318.58-4 Application for inspection.

Persons intending to move any of the products for which certification is required under § 318.58-3 shall make application for inspection thereof as far as possible in advance of the probable date of shipment. The application shall show the quantity of the products which it is proposed to move, their identifying marks and numbers, their exact location, and the contemplated date of shipment. Forms on which to make application for inspection will be furnished, upon request, by the United States Department of Agriculture, Plant Protection and Quarantine Programs.

[24 FR 10777, Dec. 29, 1959, as amended at 28 FR 13281, Dec. 7, 1963; 36 FR 24917, Dec. 24, 1971]

§ 318.58-5 Certification of shipments.

(a) Products for which certification is required under § 318.58-3 shall not be moved by ship, vessel, aircraft, or otherwise, unless each shipment is accompanied by a certificate issued by an inspector showing that such products have been inspected and pronounced free from injurious insect infestation, including the West Indian fruitfly and the bean pod borer, or that the required treatment has been given. Copies of inspection certificates shall accompany the manifests, memoranda, or bills of lading pertaining to such shipments.

(b) No charge will be made for the inspector's service in inspection and certification, but all costs for labor, cartage, storage, packing and unpacking, and other expenses incidental to inspection shall be borne by the shipper. Applicants for inspection shall place the products to be inspected so that they can be readily examined; if not so placed, inspection will be refused.

[24 FR 10777, Dec. 29, 1959, as amended at 28 FR 13281, Dec. 7, 1963]

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[1] Further information concerning the movement of frozen fruits and vegetables from Puerto Rico may be obtained from the Plant Protection and Quarantine Programs, Room 4, Post Office Bldg., P.O. Box 3386, San Juan, P.R. 00901.

§ 318.58-6 Marking of containers.

No products for which certification is required under § 318.58-3 shall be moved unless the crate, box, bale, or other container thereof is so marked with the marks and numbers given on the application that it may be identified at the port of first arrival.

[24 FR 10777, Dec. 29, 1959, as amended at 28 FR 13281, Dec. 7, 1963]

§ 318.58-7 Products as ships' stores or in the possession of passengers and crew.

The movement of products is permitted from Puerto Rico or the Virgin Islands of the United States as ships' stores or in the possession of passengers and crew on ships, vessels, or aircraft plying between Puerto Rico or the Virgin Islands of the United States and any other State, Territory, or District of the United States: *Provided,* That all such products shall upon arrival in Hawaii, Guam, or the continental United States be submitted for inspection and disposition as provided in §§ 318.58-8 and 318.58-11, and (a) they must be free from infestation with injurious insects; (b) those products not listed in § 318.58-3 shall not be landed; (c) prohibited products retained aboard shall be subject to the safeguards provided in § 352.8 of this chapter.

[24 FR 10777, Dec. 29, 1959, as amended at 28 FR 13281, Dec. 7, 1963]

§ 318.58-8 Inspection of vessels.

Inspectors are authorized to enter upon ships, vessels, and aircraft from Puerto Rico or the Virgin Islands of the United States at any time after they come within the territory or territorial waters of any other State, Territory, or District of the United States, whether in the stream or at the dock, wharf, mole, or landing field for the purpose of ascertaining by inspection whether any of the products covered by this subpart are contained in such ships, vessels, or aircraft as cargo or ships' stores, or whether there remains any infestation from such products.

[24 FR 10777, Dec. 29, 1959, as amended at 28 FR 13281, Dec. 7, 1963]

§ 318.58-9 Disinfection of vessels.

Disinfection under the direction of and in the manner prescribed by the inspector of any ship, vessel, or aircraft plying between Puerto Rico or the Virgin Islands of the United States and any other State, Territory, or District of the United States upon arrival at the dock, wharf, mole, or landing field may be required if the ship, vessel, or aircraft is found to contain or to be contaminated with any of the products infested with injurious insects. Such disinfection shall be performed by the person having charge or possession of the ship, vessel, or aircraft and at a place satisfactory to the inspector. When such ship, vessel, or aircraft has been disinfected in a manner satisfactory to such inspector, he shall immediately issue and deliver to the person having charge or possession thereof a certificate to that effect.

[24 FR 10777, Dec. 29, 1959, as amended at 28 FR 13281, Dec. 7, 1963]

§ 318.58-10 Inspection of cargo.

Inspectors are authorized to ascertain by inspection of the cargo of any ship, vessel, or aircraft plying between Puerto Rico or the Virgin Islands of the United States and any other State, Territory, or District of the United States at the port of first arrival, that each lot or shipment moving under certification agrees in nature and amount with the certificate, and that all shipments of products for which a certificate is required are duly certified; to determine, in the case of products the movement of which is not authorized, if infestation is present; and to require for such unauthorized shipments safeguards, treatment, return, or destruction, as may be necessary to prevent the dissemination of injurious insects.

[24 FR 10777, Dec. 29, 1959, as amended at 28 FR 13281, Dec. 7, 1963]

§ 318.58-11 Inspection of personal belongings.

Inspectors are authorized to inspect the baggage and other personal belongings of passengers and members of the crew on ships, vessels, or aircraft plying between Puerto Rico or the Virgin Islands of the United States and any other State, Territory, or District of the United States, in order to determine whether they contain products prohibited or restricted movement by this subpart, and if infested or unauthorized products are found, to require such safeguarding, treatment, or destruction as in the judgment of the inspector may be necessary. For the purpose of such inspection an inspector is authorized to open any box, bale, crate, bundle, or other package, including trunks, which may contain or be liable to contain any of the products covered by the § 318.58. The inspector shall designate whether such inspection shall be made at the port of departure in Puerto Rico or the Virgin Islands of the United States or at the port of debarkation within any other State, Territory, or District of the United States and no such baggage or personal belongings of passengers or crew shall be removed from the dock, airport, or landing field at the port where the inspection is to be made until the same have been inspected and passed by an inspector. The inspection provisions of this section are not applicable to the personal belongings of passengers and crews moving only in either direction between Puerto Rico and the Virgin Islands of the United States.

[24 FR 10777, Dec. 29, 1959, as amended at 28 FR 13281, Dec. 7, 1963]

§ 318.58-12 Parcel post inspection.

Inspectors are authorized to inspect, with the cooperation of the United States Post Office Department, parcel post packages placed in the mails in Puerto Rico or the Virgin Islands of the United States, to determine whether such packages contain products the movement of which is not authorized under this subpart, to examine products so found for insect infestation, and to notify the postmaster in writing of any violation of this subpart in connection therewith.

[24 FR 10777, Dec. 29, 1959, as amended at 28 FR 13281, Dec. 7, 1963]

§ 318.58-13 Movement by the Department of Agriculture.

The quarantine and regulations in this subpart shall not apply to movement of products from Puerto Rico or the Virgin Islands of the United States by the United States Department of Agriculture for experimental or scientific purposes.

[24 FR 10777, Dec. 29, 1959, as amended at 28 FR 13281, Dec. 7, 1963]

§ 318.58-14 Special provisions for preflight inspection in Puerto Rico or the Virgin Islands of aircraft, cargo, etc.

Notwithstanding any other provisions in the regulations in this subpart, any aircraft proceeding from Puerto Rico or the Virgin Islands of the United States to or through Guam, Hawaii, or the continental United States, and its cargo and stores, and the baggage and other personal belongings of its passengers and crew members, may at the discretion of an inspector, be inspected as provided in this section immediately prior to the departure of such aircraft from Puerto Rico or the Virgin Islands of the United States, in lieu of inspection at port of debarkation, and the provisions of § 318.58-4 and §§ 318.58-6 through 318.58-11 shall not apply to such aircraft, cargo, stores, baggage, and personal belongings which are so inspected. When such aircraft, cargo, stores, baggage, and personal belongings have been so inspected and found free of dangerous insects and products, the movement of which is prohibited by § 318.58 and the regulations in this subpart, the inspector shall issue a certificate to that effect, for delivery to the aircraft commander, as evidence, for later presentation at the port of debarkation, that such inspection has been made. Any aircraft found upon such preflight inspection to contain or to be contaminated with any such insects or products shall be disinfected by the person in charge or in possession of such aircraft, under the supervision of an inspector and in manner prescribed by him, before it will qualify for such a certificate. When, for any other reason, in the judgment of the inspector a hazard of spread of dangerous insects is presented in the movement of aircraft to be given preflight inspection, disinfection of such aircraft, by the inspector or, under his supervision, by the person in charge or possession of the aircraft, may be required by the inspector before the aircraft will qualify for such a certificate. Products authorized movements in § 318.58-3 must be inspected and certified, or otherwise approved by the inspector for movement, before being taken aboard any aircraft as cargo, stores, baggage, or otherwise, when such aircraft is to be given preflight inspection, and must in other respects comply with the requirements of §§ 318.58-3 and 318.58-5 except insofar as contrary provision is made in this section. The inspection provisions of this section are not applicable to the movement of aircraft, cargo, stores, and personal belongings of passengers and crews moving in either direction only between Puerto Rico and the Virgin Islands of the United States.

Subpart—Sand, Soil, or Earth, with Plants from Territories and Districts

§ 318.60 Notice of quarantine.

(a) The Secretary of Agriculture, having previously quarantined Hawaii and Puerto Rico to prevent the spread to other parts of the United States, by means of sand, soil, or earth about the roots of plants, of immature stages of certain dangerous insects, including Phyllophaga spp. (White grubs), Phytalus sp., and Adoretus sp., and of several species of termites or white ants, new to and not heretofore widely prevalent or distributed within and throughout the United States, now determines that it is necessary also to quarantine the Virgin Islands of the United States to prevent the spread of such dangerous insects from said Virgin Islands.

(b) Under the authority conferred by section 8 of the Plant Quarantine Act of August 20, 1912, as amended (7 U.S.C. 161), and having given public hearing as required thereunder, the Secretary of Agriculture hereby quarantines Hawaii, Puerto Rico, and the Virgin Islands of the United States to prevent the spread of said dangerous insects.

(c) Sand (other than clean ocean sand), soil, or earth around the roots of plants shall not be shipped offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved by any person from Hawaii, Puerto Rico, or the Virgin Islands of the United States into or through any other State, Territory, or District of the United States: *Provided,* That the prohibitions of this section shall not apply to the movement of such products in either direction between Puerto Rico and the Virgin Islands of the United States: *Provided further,* That such prohibitions shall not prohibit the movement of such products by the United States Department of Agriculture for scientific or experimental purposes, nor prohibit the movement of sand, soil, or earth around the roots of plants which are carried, for ornamental purposes, on vessels into mainland ports of the United States and which are not intended to be landed thereat, when evidence is presented satisfactory to the inspector of the Plant Protection and Quarantine Programs of the Department of Agriculture that such sand, soil, or earth has been so processed or is of such nature that no pest risk is involved, or that the plants with sand, soil, or earth around them are maintained on board under such safeguards as will preclude pest escape: *And provided further,* That such prohibitions shall not prohibit the movement of plant cuttings or plants that have been (1) freed from sand, soil, and earth, (2) subsequently potted and established in sphagnum moss or other packing material approved under § 319.37-16 that had been stored under shelter and had not been previously used for growing or packing plants, (3) grown thereafter in a manner satisfactory to an inspector of the Plant Protection and Quarantine Programs to prevent infestation through contact with sand, soil, or earth, and (4) certified by an inspector of the Plant Protection and Quarantine Programs as meeting the requirements of paragraphs (c) (1), (2), and (3) of this section.

(d) As used in this section, the term "State, Territory, or District of the United States" means "Guam, Hawaii, Puerto Rico, the Virgin Islands of the United States, or the continental United States."

Subpart—Guam

QUARANTINE

§ 318.82 Notice of quarantine.

(a) Pursuant to sections 8 and 9 of the Plant Quarantine Act of 1912, as amended (7 U.S.C. 161, 162) and sections 103 and 106 of the Federal Plant Pest Act (7 U.S.C. 150bb, 150ee), and after public hearing, it has been determined that it is necessary to quarantine Guam to prevent the spread to other parts of the United States of dangerous insect infestations and plant diseases, which are new to or not heretofore widely prevalent or distributed within and throughout the United States, including among others: Icerya aegyptiaca (Dougl.), Xanthomonas citri (Hasse) Dowson, Aleurocanthus spiniferus (Q.), Phyllocnistis citrella (Stainton), Coccus viridis (Green), Anomala sulcatula Burm., Furcaspis oceanica Ldgr., Stephanoderes hampei (Ferr.), Pectinophora scutigera (Holdaway), Dacus dorsalis Hend., Dacus cucurbitae (Coq.), Marcua testulalis (Geyer), Lampides boeticus (L.), Prays endocarpa Meyr., Prodenia litura (F.), Euscepes postfasciatus (Fairm.), Earias fabia (Stoll), Elsinoe batatas (Saw.) Viegas and Jenkins, Uredo dioscoreae-alatae Rac., Cercospora batatae Zimm., Coniothyrium sp., Phyllosticta colocasiophila Weed., Xanthomonas vasculorum (Cobb) Dowson, Rhabdoscelus obscurus (Boisd.), Neomaskellia bergii (Sign.), Pyrausta nubilalis (Hbn.), Physoderma zeae-maydis Shaw, Leptocorisa acuta (Thunb.), Adoretus sinicus Burm., and Holotrichia mindanaona Brenske, as well as other plant pests, and Guam is hereby quarantined because of such insect infestations and diseases and other plant pests, and regulations are prescribed in this subpart governing the movement of carriers of these pests.

(b) No plants or parts thereof capable of propagation; seeds; fruits or vegetables; cotton or cotton covers; sugarcane or parts or by-products thereof; cereals; cut flowers; or packing materials; as such articles are defined in regulations supplemental hereto, shall be shipped, deposited for transmission in the mail, offered for shipment, received for transportation, carried, otherwise transported or moved, or allowed to be moved, by mail or otherwise, by any person from Guam into or through any other State, Territory, or District of the United States, in any manner or method or under conditions other than those prescribed in the regulations, as from time to time amended: *Provided,* That whenever the Deputy Administrator of the Plant Protection and Quarantine Programs shall find that existing conditions as to the pest risk involved in the movement from Guam of the articles designated herein, make it safe to modify, by making less stringent, the restrictions contained in any regulations in this subpart or in any other subpart in this chapter made applicable thereto by this subpart, he shall publish such findings in administrative instructions, specifying the manner in which the regulations should be made less stringent with respect to such movement, whereupon such modification shall become effective; or he may, when the public interests will permit in specific cases, upon notification to the consignor and to the consignee, authorize the interstate movement from Guam of the articles to which such regulations apply, under conditions that are less stringent than those contained in the regulations.

(c) Regulations governing the movement of live plant pests designated in this section are contained in Part 330 of this chapter.

REGULATIONS

§ 318.82-1 Definitions.

Words used in the singular form in this subpart shall be deemed to import the plural and vice versa, as the case may demand. For the purposes of this subpart, unless the context otherwise requires, the following words shall be construed, respectively, to mean:

(a) *Plants.* Trees, shrubs, vines, cuttings, grafts, scions, buds, herbaceous plants, bulbs, roots, and other plants and plant parts intended for propagation.

(b) *Seeds.* The mature ovular bodies produced by flowering plants, containing embryos capable of developing into new plants by germination.

(c) *Fresh fruits and vegetables.* The edible, more or less succulent, portions of food plants in the raw or unprocessed state.

(d) *Cotton and cotton covers.* Any parts or products of plants of the genus Gossypium, including seed cotton; cottonseed; cotton lint, linters, and other forms of cotton fiber (not including yarn, thread, and cloth); cottonseed hulls, cake, meal, and other cottonseed products except oil; cotton waste, including gin waste and thread waste; and any other unmanufactured parts of cotton plants; and secondhand burlap and other fabrics, shredded or otherwise, which have been used, or are of the kinds ordinarily used, for containing cotton, grains (including grain products), field seeds, agricultural roots, rhizomes, tubers, or other underground crops.

(e) *Sugarcane or parts or by-products thereof.* Stems of sugarcane (Saccharum spp.), or cuttings or parts thereof, sugarcane leaves, or bagasse or other parts of sugarcane plants, except seeds, not sufficiently processed to remove plant pest danger.

(f) *Cereals.* Seed and other plant parts of all members of the grass family (Gramineae) which yield grain or seed suitable for food, including, but not limited to, wheat, rice, corn and related plants. This definition shall include straw, hulls, chaff and products of the milling process (but excluding flour) of such grains and seeds as well as stalks and all other parts of broomcorn.

(g) *Cut flower.* The highly perishable commodity known in the commercial flower-producing industry as a cut flower, and being the severed portion of a plant, including the inflorescence, and any parts of the plant attached thereto, in a fresh state.

(h) *Packing materials.* Any plant or plant product, or soil as defined in § 330.100(t) of this chapter, or other substance associated with or accompanying any commodity or shipment to serve for filling, wrapping, ties, lining, mats, moisture retention, protection, or any other auxiliary purpose. The word "packing," as used in the expression "packing materials," shall include the presence of such materials within, in contact with, or accompanying such commodity or shipment.

(i) *Administrative instructions.* Published documents relating to the enforcement of the regulations in this subpart, issued under the authority of such regulations by the Deputy Administrator of the Plant Protection and Quarantine Programs.

(j) *State, Territory, or District of the United States.* Guam, Hawaii, Puerto Rico, the Virgin Islands of the United States, or the continental United States (including Alaska).

(k) *United States.* The States, the District of Columbia, Guam, Hawaii, Puerto Rico, and the Virgin Islands of the United States.

(l) *Oceania.* The islands of the Central and South Pacific, including Micronesia, Melanesia, and Polynesia, as well as Australia, New Zealand, and the Malay Archipelago.

(m) *Far East.* The countries of East and Southeast Asia, including Japan, Korea, Taiwan, the northeastern provinces of Manchuria, the Philippines, Indo-China, and India.

§ 318.82-2 Movement of regulated articles.

(a) Plants, plant products, and other articles designated in § 318.82 may be moved from Guam into or through any other State, Territory, or District of the United States only if, in the case of articles other than soil, they meet the strictest plant quarantine requirements for similar articles offered for entry into such State, Territory, or District from Oceania or the Far East under Part 319 or Part 321 of this chapter, except requirements for permits, foreign inspection certificates, notices of arrival, and notices of shipment from port of arrival, and in the case of soil if it meets the requirements of § 330.300 of this chapter. If such similar articles cannot be imported into the particular State, Territory, or District from Oceania or the Far

East under either Part 319 or Part 321 of this chapter, the interstate movement of the articles from Guam into or through such State, Territory or District shall be similarly prohibited. Plants, plant products, and other articles moved from Guam into or through any other State, Territory or District of the United States shall be subject to inspection at the port of first arrival in another part of the United States to determine whether they are free of plant pests and otherwise meet the requirements applicable to them under this subpart, and shall be subject to release, in accordance with § 330.105(a) of this chapter as if they were foreign arrivals. Such articles shall be released only if they meet all applicable requirements under this subpart.

(b) A release may be issued orally by the inspector when inspection of small quantities of regulated articles is involved except that a release issued in specific cases pursuant to the proviso in § 318.82 shall be in writing.

(c) The appropriate provisions of Part 352 of this chapter are hereby made applicable to the safeguarding of regulated articles from Guam temporarily in parts of the United States other than Guam, when landing therein is not intended or landing has been refused in accordance with this subpart. The movement of plant pests, means of conveyance, plants, plant products, and other products and articles from Guam into or through any other State, Territory, or District is also regulated by Part 330 of this chapter.

§ 318.82-3 Costs.

All costs incident to the inspection, handling, cleaning, safeguarding, treating, or other disposal of products or articles under this subpart, except for the services of an inspector during regularly assigned hours of duty and at the usual places of duty, shall be borne by the owner.

PART 319—FOREIGN QUARANTINE NOTICES

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AUTHORITY: 7 U.S.C. 150dd, 150ee, 150ff, 151-167; 7 CFR 2.17, 2.51, and 371.2(c).

SOURCE: 24 FR 10788, Dec. 29, 1959, unless otherwise noted.

Subpart—Foreign Cotton and Covers

QUARANTINE

§ 319.8 Notice of quarantine.

(a) Pursuant to sections 5 and 7 of the Plant Quarantine Act of 1912, as amended (7 U.S.C. 159, 160), and after the public hearing required thereunder, the Administrator of the Animal and Plant Health Inspection Service hereby determines that the unrestricted importation into the United States from all foreign countries and localities of (1) any parts or products of plants of the genus Gossypium, including seed cotton; cottonseed; cotton lint, linters, and other forms of cotton fiber (not including yarn, thread, and cloth); cottonseed hulls, cake, meal, and other cottonseed products, except oil; cotton waste, including gin waste and thread waste; and any other unmanufactured parts of cotton plants; and (2) second-hand burlap and other fabrics, shredded or otherwise, which have been used or are of the kinds ordinarily used, for containing cotton, grains (including grain products), field seeds, agricultural roots, rhizomes, tubers, or other underground crops, may result in the entry into the United States of the pink bollworm (Pectinophora gossypiella (Saund.)), the golden nematode of potatoes Heterodera rostochiensis Wr.), the flag smut disease (Urocystis tritici Koern.), and other injurious plant diseases and insect pests, and said Administrator hereby further determines, that, in order to prevent the introduction into the United States of said plant diseases and insect pests, which are new to or not heretofore widely prevalent or distributed within and throughout the United States, it is necessary to forbid the importation into the United States of the plants and products, including fabrics, specified above, except as permitted in the regulations supplemental hereto. Hereafter the plants and products specified above shall not be imported or offered for entry into the United States from any foreign country or locality except as permitted by said regulations, and the plants and products permitted by the regulations to be imported or offered for entry shall be subject to the provisions of sections 1, 2, 3, and 4 of said Plant Quarantine Act (7 U.S.C. 154, 156, 157, and 158): *Provided*, That whenever the Deputy Administrator of the Plant Protection and Quarantine Programs shall find the existing conditions as to pest risk involved in the importation of the articles to which the regulations supplemental hereto apply, make it safe to modify, by making less stringent the restrictions contained in any of such regulations, he shall publish such findings in the administrative instructions, specifying the manner in which the restrictions shall be made less stringent, whereupon such modification shall become effective; or he may, upon request in specific cases, when the public interests will permit, authorize such importation under conditions specified in the permit to carry out the purposes of this part that are less stringent than those contained in the regulations.

(b) As used in this section the term "United States" shall have the meaning ascribed to it in the regulations supplemental hereto.

[24 FR 10788, Dec. 29, 1959, as amended at 36 FR 24917, Dec. 24, 1971; 37 FR 10554, May 25, 1972]

§ 319.8a Administrative instructions relating to the entry of cotton and covers into Guam.

The plants and products specified in § 319.8(a) may be imported into Guam without further permit, other than the authorization contained in this paragraph. Sections 319.8-2 and 319.8-3 shall not be applicable to such importations. In addition, such importations need not comply with the requirements of § 319.8-4 relating to notice of arrival inasmuch as there is available to the inspector the essential information normally supplied by the importer at the time of importation. Sections 319.8-5 through 319.8-27 shall not be applicable to importations into Guam. Inspection of such importations may be made under the general authority of § 330.105(a) of this chapter. If an importation is found infected, infested, or contaminated with any plant pest and is not subject to disposal under this part, disposition may be made in accordance with § 330.106 of this chapter.

REGULATIONS; GENERAL

§ 319.8-1 Definitions.

For the purposes of the regulations in this subpart, the following words shall be construed, respectively, to mean:

(a) *Cotton.* Parts and products of plants of the genus Gossypium, including seed cotton; cottonseed; cotton lint, linters and other forms of cotton fiber, not including yarn, thread and cloth; cottonseed hulls, cake, meal, and other cottonseed products, except oil; waste; and all other unmanufactured parts of cotton plants.

(b) *Seed cotton.* Cotton as it comes from the field.

(c) *Cottonseed.* Cottonseed from which the lint has been removed.

(d) *Lint.* All forms of raw ginned cotton, either baled or unbaled, except linters and waste.

(e) *Linters.* All forms of cotton fiber separated from cottonseed after the lint has been removed, excluding so-called hull fiber.

(f) *Waste.* All forms of cotton waste derived from the manufacture of cotton lint, in any form or under any trade designation, including gin waste and thread waste; and waste products derived from the milling of cottonseed. Gin trash is not within the definition of waste.

(g) *Gin trash.* All of the material produced during the cleaning and ginning of seed cotton, bollies or snapped cotton except the lint, cottonseed, and gin waste.

(h) *Covers.* Second-hand burlap and other fabrics, shredded or otherwise, including any whole bag, any bag that has been slit open, and any part of a bag, which have been used, or are of the kinds ordinarily used, for containing cotton, grains (including grain products), field seeds, agricultural roots, rhizomes, tubers, or other underground crops. Burlap and other fabrics, when new or unused are excluded from this definition.

(i) *Uncompressed.* Baled or packaged to a density not exceeding approximately 20 pounds per cubic foot.

(j) *Compressed.* Compressed or pressed and baled or packaged to a density greater than approximately 20 pounds and less than approximately 28 pounds per cubic foot.

(k) *Compressed to high density.* Compressed or pressed and baled or packaged to a density of approximately 28 or more pounds per cubic foot.

(l) *Contamination (contaminate).* Containing or bearing whole cottonseed or seed cotton or other material which may carry the pink bollworm, the golden nematode of potatoes, the flag smut disease, or other injurious plant diseases or insect pests. (The verb contaminate shall be construed accordingly.)

(m) *Samples.* Samples of lint, linters, waste, cottonseed cake, and cottonseed meal, of the amount and character usually required for trade purposes.

(n) *United States.* Any of the States, the District of Columbia, Guam, Puerto Rico, or the Virgin Islands of the United States.

(o) *North, northern.* When used to designate ports of arrival, these terms mean the port of Norfolk, Virginia, and all Atlantic Coast ports north thereof, ports along the Canadian border, and Pacific Coast ports in the States of Washington and Oregon. When used in a geographic sense to designate areas or locations, these terms mean any State in which cotton is not grown commercially. However when cotton is grown commercially in certain portions of a State, as is the case in Illinois, Kansas, and Missouri, these terms include those portions of such State as may be determined by the Deputy Administrator of the Plant Protection and Quarantine Programs as remote from the main area of cotton production.

(p) *Approved areas of Mexico.* Any areas of Mexico, other than those described in paragraphs (q) and (r) of this section, which are designated by the Deputy Administrator as areas in which cotton and cotton products are produced and handled under conditions comparable to those under which like cotton and cotton products are produced and handled in the generally infested pink bollworm regulated area in the United States.

(q) *West Coast of Mexico.* The State of Sinaloa, the State of Sonora (except that part of the Imperial Valley lying between San Luis Mesa and the Colorado River), and the Southern Territory of Baja California, in Mexico.

(r) *Northwest Mexico.* All of the State of Baja California, Mexico, and that part of the State of Sonora, Mexico, lying between San Luis Mesa and the Colorado River.

(s) *Treatment.* Procedures administratively approved by the Deputy Administrator of the Plant Protection and Quarantine Programs for destroying infestations or infections of insect pests or plant diseases, such as fumigation, application of chemicals or dry or moist heat, or processing, utilization, or storage.

(t) *Permit.* A form of authorization to allow the importation of cotton or covers in accordance with the regulations in this subpart.

(u) *Approved.* Approved by the Deputy Administrator of the Plant Protection and Quarantine Programs.

(v) *Approved fumigation facilities.* Approved vacuum fumigation plant at a port where an inspector is available to supervise the fumigation.

(w) *Utilization.* Processing or manufacture, in lieu of fumigation at time of entry, at a mill or plant specifically approved by the Deputy Administrator of the Plant Protection and Quarantine Programs.[1]

(x) *Authorized.* Authorized by the Deputy Administrator of the Plant Protection and Quarantine Programs.

(y) *Deputy Administrator, Plant Protection and Quarantine Programs.* The Deputy Administrator of the Plant Protection and Quarantine Programs, or any officer or employee of the Plant Protection and Quarantine Programs to whom authority has heretofore been delegated or may hereafter be delegated to act in his stead.

(z) *Plant Protection and Quarantine Programs.* The Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, of the United States Department of Agriculture.

(aa) *Inspector.* A properly identified employee of the U.S. Department of Agriculture or other person authorized by the Department to enforce the provisions of the Plant Quarantine Act.

(bb) *Person.* Any individual, firm, corporation, company, society, or association, or any organized group of any of the foregoing.

(cc) *Root crop.* The underground crop portions of any plants.

(dd) *Pink bollworm regulated area; generally infested pink bollworm regulated area.* The pink bollworm regulated area consists of those States or parts thereof designated as regulated area in Administrative Instructions issued under § 301.52–2 of this chapter. The generally infested pink bollworm regulated area is that part of the regulated area designated as generally infested in the said Administrative Instructions.

(ee) *Approved mill or plant.* A mill or plant operating under a signed agreement with the Plant Protection and Quarantine Programs required for approval of a mill or plant as specified in § 319.8-8(a)(2).

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[1] A list of approved mills and plants may be obtained from the Plant Protection and Quarantine Programs, Room 710, U.S. Appraisers Stores, 408 Atlantic Ave., Boston, Mass. 02210.

[24 FR 10788, Dec. 29, 1959, as amended at 27 FR 5389, June 7, 1962; 36 FR 24917, Dec. 24, 1971; 37 FR 10554, May 25, 1972]

CONDITIONS OF IMPORTATION AND ENTRY OF COTTON AND COVERS

§ 319.8-2 Permit procedure.

(a) Except as otherwise provided for in §§ 319.8-10 and 319.8-18, permits shall be obtained for importations into the United States of all cotton and covers. Permits will be issued only for cotton and covers authorized entry under §§ 319.8-6 through 319.8-20. Persons desiring to import cotton or covers under §§ 319.8-6 through 319.8-20 shall, in advance of departure of such material from a foreign port, submit to the Plant Protection and Quarantine Programs an application[2] stating the name and address of the importer, the country from which such material is to be imported, and the kind of cotton or covers it is desired to import. Applications to import cottonseed shall state the approximate quantity and the proposed United States port of entry. Applications to import lint, linters, or waste shall state whether such materials are compressed.

(b) Applications to import lint, linters, or waste at a port[3] other than one in the North, in California, or on the Mexican Border shall also specify whether the commodity is compressed to high density.

(c) Applications for permits may be made orally or on forms provided for the purpose by the Plant Protection and Quarantine Programs, or may be made by a letter or telegram containing all the information required by this section.

(d) Upon receipt and approval of such application by the Plant Protection and Quarantine Programs, an individual or continuing permit will be issued authorizing the importation and specifying the port of entry and the conditions of entry. A copy of the permit will be supplied to the importer.

(e) Upon receipt of an application to import lint, linters, waste, or covers, without treatment, for utilization under agreement as defined in § 319.8-8(a)(2), an investigation will be made by an inspector to determine that the receiving mill or plant is satisfactorily located geographically, is equipped with all necessary safeguards, and is apparently in a position to fulfill all precautionary conditions to which it may agree. Upon determination by the inspector that these qualifications are fulfilled, the owner or operator of the mill or plant may sign an agreement specifying that the required precautionary conditions will be maintained. Such signed agreement will be a necessary requisite to the release at the port of entry of any imported lint, linters, waste, or covers for forwarding to and utilization at such mill or plant in lieu of vacuum fumigation or other treatment otherwise required by this subpart. Permits for the importation of such materials will be issued in accordance with paragraph (a) of this section.

(f) Permits for importation of any cotton or covers are conditioned upon compliance with all requirements set forth therein and such additional requirements in this subpart as are in terms applicable thereto. Failure to comply with any such requirement will be deemed to invalidate the permit. Permits may also be cancelled or may be refused as provided in § 319.8-3, or entry denied as provided in §§ 319.8-11, 319.8-12, and § 319.8-13.

(g) If through no fault of the importer a shipment of cotton or covers arrives at a United States port in advance of the issuance of a permit, it may be held, under suitable safeguards prescribed by the inspector at the port, in Customs custody at the risk of the importer, pending issuance of a permit, for a period not exceeding 20 days.

(h) Pending development of adequate treating facilities in Guam, any cotton or covers that are subject to treatment as a condition of entry therein must first be entered and treated in accordance with the requirements of this subpart at a United States port of arrival where such treating facilities are available.

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[2] Applications for permits should be made to Plant Importations Branch, Plant Protection and Quarantine Programs, 209 River Street, Hoboken, N.J. 07030.

[3] Including ports in Guam, Hawaii, Puerto Rico, and the Virgin Islands of the United States.

(Approved by the Office of Management and Budget under control number 0579-0049)

(44 U.S.C. 35)

[24 FR 10788, Dec. 29, 1959, as amended at 48 FR 57466, Dec. 30, 1983]

§ 319.8-3 Refusal and cancellation of permits.

(a) Permits for entry from the West Coast of Mexico, as authorized in § 319.8-12 of lint, linters, waste, cottonseed, and cottonseed hulls may be refused and existing permits cancelled by the Deputy Administrator if he has determined that the pink bollworm is present in the West Coast of Mexico or in Northwest Mexico, or that other conditions exist therein that would increase the hazard of pest introduction into the United States.

(b) Permits for entry from Northwest Mexico as authorized in § 319.8-13 of lint, linters, waste, cottonseed, cottonseed hulls, and covers that have been used for cotton, may be refused and existing permits cancelled by the Deputy Administrator if he has determined that the pink bollworm is present in Northwest Mexico or in the West Coast of Mexico, or that other conditions exist therein that would increase the hazard of pest introduction into the United States.

[27 FR 5389, June 7, 1962, as amended at 36 FR 24917, Dec. 24, 1971]

§ 319.8-4 Notice of arrival.

Immediately upon arrival at a port of entry of any shipment of cotton or covers the importer shall submit in duplicate, through the United States Collector of Customs, or, in the case of Guam, through the Customs officer of the Government of Guam, and for the Plant Protection and Quarantine Programs, a notice of such arrival, on a form provided for that purpose (Form PQ-368) and shall give such information as is called for by that form.

(Approved by the Office of Management and Budget under control number 0579-0049)

(44 U.S.C. 35)

[24 FR 10788, Dec. 29, 1959, as amended at 48 FR 57466, Dec. 30, 1983]

§ 319.8-5 Marking of containers.

Every bale or other container of cotton lint, linters, waste, or covers imported or offered for entry shall be plainly marked or tagged with a bale number or other mark to distinguish it from other bales or containers of similar material. Bales of lint, linters, and waste from approved areas of Mexico, the West Coast of Mexico, or Northwest Mexico shall be tagged or otherwise marked to show the gin or mill of origin unless they are immediately exported.

(Approved by the Office of Management and Budget under control number 0579-0049)

(44 U.S.C. 35)

[27 FR 5389, June 7, 1962, as amended at 48 FR 57466, Dec. 30, 1983]

§ 319.8-6 Cottonseed cake and cottonseed meal.

Entry of cottonseed cake and cottonseed meal will be authorized through any port at which the services of an inspector are available, subject to examination by an inspector for freedom from contamination. If found to be free of contamination, importations of such cottonseed cake and cottonseed meal will be released from further plant quarantine entry restrictions. If found to be contaminated such importations will be refused entry or subjected as a condition of entry to such safeguards as the inspector may prescribe, according to a method selected by him from administratively authorized procedures known to be effective under the conditions under which the safeguards are applied.

§ 319.8-7 Processed lint, linters, and waste.

Entry of lint, linters, and waste will be authorized without treatment but upon compliance with other applicable requirements of this subpart when the inspector can determine that such lint, linters, and waste have been so processed by bleaching, dyeing, or other means, as to have removed all cottonseed or to have destroyed all insect life.

§ 319.8-8 Lint, linters, and waste.

(a) *Compressed to high density.* (1) (i) Entry of lint, linters, and waste, compressed to high density, will be authorized subject to vacuum fumigation by approved methods at any port where approved fumigation facilities are available.

(ii) Importations of such lint, linters, and waste, arriving at a northern port where there are no approved fumigation facilities may be entered for transportation in bond to another northern port where such facilities are available, for the required vacuum fumigation.

(iii) Such lint, linters, and waste compressed to high density arriving at a port in the State of California where there are no approved fumigation facilities may be entered for immediate transportation in bond via an all-water route if available, otherwise by overland transportation in van-type trucks or box cars after approved surface treatment, or under such other conditions as may be deemed necessary and are prescribed by the inspector to (*a*) any port where approved fumigation facilities are available, there to receive the required vacuum fumigation before release, or (*b*) to an approved mill or plant for utilization.

(2) Entry of lint, linters, and waste compressed to high density, will be authorized without vacuum fumigation at any northern port, subject to movement to an approved mill or plant, the owner or operator of which has executed an agreement with the Plant Protection and Quarantine Programs to the effect that, in consideration of the waiving, of vacuum fumigation as a condition of entry and the substitution of approved utilization therefor:

(i) The lint, linters, and waste so entered will be processed or manufactured at the mill or plant and until so used will be retained thereat, unless written authority is granted by the Plant Protection and Quarantine Programs to move the material to another mill or plant;

(ii) Sanitary measures satisfactory to the Plant Protection and Quarantine Programs will be taken with respect to the collection and disposal of any waste, residues, and covers, including the collection and disposal of refuse from railroad cars, trucks, or other carriers used in transporting the material to the mill or plant;

(iii) Inspectors of the Plant Protection and Quarantine Programs will have access to the mill or plant at any reasonable time to observe the methods of handling the material, the disposal of refuse, residues, waste, and covers, and otherwise to check compliance with the terms of the agreement;

(iv) Such reports of the receipt and utilization of the material, and disposal of waste therefrom as may be required by the inspector will be submitted to him promptly;

(v) Such other requirements as may be necessary in the opinion of the Deputy Administrator of the Plant Protection and Quarantine Programs to assure retention of the material, including all wastes and residues, at the mill or plant and its processing, utilization or disposal in a manner that will eliminate all pest risk, will be complied with.

(3) Failure to comply with any of the conditions of an agreement specified in paragraph (a)(2) of this section may be cause for immediate cancellation of the agreement by the inspector and refusal to release, without vacuum fumigation, lint, linters, and waste for transportation to the mill or plant.

(4) Agreements specified in paragraph (a)(2) of this section may be executed only with owners or operators of mills or plants located in States in which cotton is not grown commercially and at locations in such other States as may be administratively designated by the Deputy Administrator of the Plant Protection and Quarantine Programs after due consideration of possible pest risk involved and the proximity of growing cotton.

(b) *Uncompressed or compressed.* (1) (i) Entry of uncompressed or compressed lint, linters, and waste will be authorized, subject to vacuum fumigation by approved methods, through any northern port, through any port in the State of California, and through any port on the Mexican Border, where approved fumigation facilities are available.

(ii) Importations of such lint, linters, and waste arriving at a northern port where there are no approved fumigation facilities may be entered for immediate transportation in bond to another northern port where such facilities are available, for the required vacuum fumigation.

(iii) Compressed lint, linters, and waste arriving at a port in the State of California where there are no approved fumigation facilities may be entered for immediate transportation in bond by an all-water route if available, otherwise by overland transportation in van-type trucks or box cars after approved surface treatment, or under such other conditions as may be deemed necessary and are prescribed by the inspector, to any port in California or any northern port where approved fumigation facilities are available, there to receive the required vacuum fumigation before release, or to any northern port for movement to an approved mill or plant for utilization.

(iv) Uncompressed lint, linters, and waste arriving at a port in the State of California where there are no approved fumigation facilities may be entered for immediate transportation in bond by an all-water route to any port in California or any northern port where approved fumigation facilities are available, there to receive the required vacuum fumigation before release, or to a northern port for movement to an approved mill or plant for utilization.

(2) Entry without vacuum fumigation will be authorized for compressed lint, linters, and waste, and for uncompressed waste derived from cotton milled in countries that do not produce cotton,[4] arriving at a northern port, subject to movement to an approved mill or plant.

[24 FR 10788, Dec. 29, 1959, as amended at 27 FR 5389, June 7, 1962; 36 FR 24917, Dec. 24, 1971]

§ 319.8–9 Hull fiber and gin trash.

(a) Entry of hull fiber will be authorized under the same conditions as are applicable to waste under this subpart.

(b) Gin trash may be imported only under the provisions of § 319.8–20.

[24 FR 10788, Dec. 29, 1959, as amended at 27 FR 5390, June 7, 1962]

§ 319.8–10 Covers.

(a) Entry of covers (including bags, slit bags, and parts of bags) which have been used as containers for cotton grown or processed in countries other than the United States may be authorized either (1) through a Mexican border port named in the permit for vacuum fumigation by an approved method in that part of the United States within the generally infested pink bollworm regulated area; or (2) through a northern port or a port in the State of California subject to vacuum fumigation by an approved method or without vacuum fumigation when the covers are to be moved to an approved mill or plant for utilization. When such covers are forwarded from a northern port to a mill or plant in California for utilization, or from a California port to another California or northern port for vacuum fumigation thereat or for movement to a mill or plant for utilization such movement shall be made by an all-water route unless the bales are compressed to a density of 20 pounds or more per cubic foot in which case the bales may be moved overland in van-type trucks or box cars if all-water transportation is not available. Such overland movement may be made only after approved surface treatment or under such other conditions as may be deemed necessary and are prescribed by the inspector. When such covers arrive at a port other than a northern, California, or Mexican border port they will be required to be transported therefrom immediately in bond by an all-water route to a northern or California port where approved vacuum fumigation facilities are available for vacuum fumigation thereat by an approved method or for forwarding therefrom to an approved mill or plant for utilization.

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[4] For the purposes of this subpart the following countries are considered to be those in which cotton is not produced: Austria, Belgium, Canada, Denmark, Republic of Ireland (Eire), Finland, France, Germany (both East and West), Great Britain and Northern Ireland (United Kingdom), Iceland, Liechtenstein, Luxembourg, Netherlands, Norway, Portugal, Sweden, and Switzerland.

(b) American cotton bagging, commonly known as coarse gunny, which has been used to cover only cotton grown or processed in the United States, may be authorized entry at any port under permit and upon compliance with §§ 319.8-4 and 319.8-5, without fumigation or other treatment. Marking patches of the finer burlaps or other fabrics when attached to bales of such bagging may be disregarded if, in the judgment of the inspector, they do not present a risk of carrying live pink bollworms, golden nematode cysts or flag smut spores.

(c) Bags, slit bags, parts of bags, and other covers which have been used as containers for root crops or are of a kind ordinarily used as containers for root crops may be authorized entry subject to immediate treatment in such manner and according to such method as the inspector may select from administratively authorized procedures known to be effective under the conditions under which the treatment is applied, and subject to any additional safeguard measures that may be prescribed by the inspector pursuant to § 319.8-24, or that he may prescribe in regard to the manner of discharge from the carrier and conveyance to the place of treatment: *Provided*, That such covers may be authorized entry from Canada without treatment as prescribed in this paragraph unless the covers are found to be contaminated.

(d) Bags, slit bags, parts of bags, and other covers that have been used as containers for wheat or wheat products that have not been so processed as to have destroyed all flag smut disease spores, or that have been used as containers for field seeds separated from wheat during the process of screening, and which arrive from a country named in § 319.59 (notice of quarantine No. 59 relating to the flag smut disease),[5] if intended for reuse in this country as grain containers may be authorized entry, subject to immediate treatment at the port of arrival. If such covers are not intended to be reused in this country as grain containers their entry may be authorized subject to movement for utilization to an approved mill or plant the owner or operator of which has executed an appropriate agreement with the Plant Protection and Quarantine Programs similar to that described in § 319.8-8(a)(2). Covers coming within this paragraph only, may be entered without permit other than the authorization provided in this paragraph and without other restriction under this subpart upon presentation to an inspector of satisfactory evidence that they have been used only for grains exported from the United States and are being returned empty without use abroad and that while abroad they have been handled in a manner to prevent their contamination.

(e) When upon arrival at a port of entry any shipment of bags, slit bags, parts of bags, or other covers, is found to include one or more bales containing material the importation of which is regulated by paragraph (a), (c), or (d) of this section, the entire shipment, or any portion thereof, may be required by the inspector to be treated as specified in the applicable paragraph.

(f) If upon their arrival at a port of entry covers are classified by the inspector as coming within more than one paragraph of this section, they will be authorized entry only upon compliance with such requirements of the applicable paragraphs as the inspector may deem necessary to prevent the introduction of plant diseases and insect pests.

(g) Notwithstanding the provisions of any other paragraph of this section the entry from any country of bags, slit bags, parts of bags, and other covers will be authorized without treatment but upon compliance with other applicable sections of this subpart if the inspector finds that they have obviously not been used in a manner that would contaminate them or when in the inspector's opinion there is otherwise no plant pest risk associated with their entry.

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[5] The countries named in § 319.59, the Flag Smut Disease Quarantine, are Aden Protectorate, Afghanistan, Australia, Bulgaria, Caucasus (including but not limited to Azerbaidzhan, South Russia, and Transcaucasia), Chile, China, Cyprus, Egypt, Greece, India, Iran, Iraq, Israel, Italy, Japan, Oman, Pakistan, Palestine, Portugal, Saudi Arabia, Sinai Peninsula, Spain, Syria, Trans-Jordan, Tunisia, Turkestan, Turkey, Union of South Africa, and Yemen.

[24 FR 10788, Dec. 29, 1959, as amended at 27 FR 5390, June 7, 1962; 36 FR 24917, Dec. 24, 1971]

Special Conditions for the Entry of Cotton and Covers From Mexico

Source: Sections 319.8-11 through 319.8-14 appear at 27 FR 5309, June 7, 1962, unless otherwise noted.

§ 319.8-11 From approved areas of Mexico.

(a) Entry of lint, linters, and waste (including gin and oil mill wastes) which were derived from cotton grown in, and which were produced and handled only in approved areas of Mexico[6] may be authorized through Mexican Border ports in Texas named in the permits (1) for movement into the generally infested pink bollworm regulated area such products becoming subject immediately upon release by the inspector to the requirements, in § 301.52 of this chapter, applicable to like products originating in the pink bollworm regulated area, or (2) for movement to an approved mill or plant for utilization, or (3) for movement to New Orleans for immediate vacuum fumigation.

(b) Entry of cottonseed or cottonseed hulls in bulk, or in covers that are new or which have not been used previously to contain cotton or unmanufactured cotton products, may be authorized through Mexican Border ports in Texas named in the permits, for movement into the generally infested pink bollworm regulated area when certified by an inspector as having been produced in an approved area and handled subsequently in a manner satisfactory to the inspector. Upon arrival in the generally infested pink bollworm regulated area such cottonseed or cottonseed hulls will be released from further plant quarantine entry requirements and shall become subject immediately to the requirements in § 301.52 of this chapter.

§ 319.8-12 From the West Coast of Mexico.

Contingent upon continued freedom of the West Coast of Mexico and of Northwest Mexico from infestations of the pink bollworm, entry of the following products may be authorized under permit subject to inspection to determine freedom from hazardous plant pest conditions:

(a) Compressed lint and linters.

(b) Uncompressed lint and linters for movement into the generally infested pink bollworm regulated area, movement thereafter to be in accordance with § 301.52 of this chapter.

(c) Compressed or uncompressed cotton waste for movement under bond to Fabens, Texas, for vacuum fumigation after which it will be released from further plant quarantine entry requirements.

(d) Cottonseed when certified by an inspector as having been treated, stored, and transported in a manner satisfactory to the Deputy Administrator.

(e) Untreated, non-certified cottonseed contained in new bags for movement by special manifest to any destination in the generally infested pink bollworm regulated area, movement thereafter to be in accordance with § 301.52 of this chapter.

(f) Cottonseed hulls when certified by an inspector as having been treated, stored, and transported in a manner satisfactory to the Deputy Administrator.

(g) Any cotton products for movement through Mexican border ports in Texas directly into the generally infested pink bollworm regulated area, movement thereafter to be in accordance with § 301.52 of this chapter.

[27 FR 5309, June 7, 1962, as amended at 36 FR 24917, Dec. 24, 1971]

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[6] See § 319.8-1(p) for definition of "Approved areas of Mexico." These are within that part of Mexico not included in the "West Coast of Mexico" (§ 319.8-1(q)) or "Northwest Mexico" (§ 319.8-1(r)).

§ 319.8-13 From Northwest Mexico.

Contingent upon continued freedom of Northwest Mexico and of the West Coast of Mexico from infestations of the pink bollworm and other plant pest conditions that would increase risk of pest introduction into the United States with importations authorized under this section, entry of the following products may be authorized under permit subject to inspection upon arrival to determine freedom from hazardous plant pest conditions:

(a) Lint, linters, and waste.

(b) Cottonseed.

(c) Cottonseed hulls.

(d) Covers that have been used for cotton only.

§ 319.8-14 Mexican cotton and covers not otherwise enterable.

Mexican cotton and covers not enterable under § 319.8-11, § 319.8-12, or § 319.8-13 may be entered in accordance with §§ 319.8-6 through 319.8-10 and §§ 319.8-16 through 319.8-20 insofar as said sections are applicable.

MISCELLANEOUS PROVISIONS

§ 319.8-16 Importation into United States of cotton and covers exported therefrom.

(a) Cotton and covers grown, produced, or handled in the United States and exported therefrom, and in the original bales or other containers in which such material was exported therefrom, may be imported into the United States at any port under permit, without vacuum fumigation or other treatment or restriction as to utilization, upon compliance with §§ 319.8-2, 319.8-4, and § 319.8-5, and upon the submission of evidence satisfactory to the inspector that such material was grown, produced, or handled in the United States and does not constitute a risk of introducing the pink bollworm into the United States.

(b) Cotton and covers of foreign origin imported into the United States in accordance with this subpart and exported therefrom, when in the original bales or other original containers, may be reimported into the United States under the conditions specified in paragraph (a) of this section.

§ 319.8-17 Importation for exportation, and importation for transportation and exportation; storage.

(a) Importation of cotton and covers for exportation, or for transportation and exportation, in accordance with this subpart shall also be subject to §§ 352.1 through 352.8 of this chapter, as amended.

(b) Importation at northern ports of unfumigated lint, linters, waste, cottonseed cake, cottonseed meal and covers used only for cotton, for exportation or for transportation and exportation through another northern port, may be authorized by the inspector under permit if, in his judgment, such procedures can be authorized without risk of introducing the pink bollworm.

(c) Entry under permit of lint, linters, or waste compressed to high density will be authorized for purposes of storage in the north pending exportation, fumigation, or utilization in an approved mill or plant provided the owner or operator of such proposed storage place has executed an agreement with the Plant Protection and Quarantine Programs similar to those required for mills or plants to utilize lint, linters, and waste as specified in § 319.8-8(a)(2), and provided further that (1) inspectors are available to supervise the storage, (2) the bales of material to be stored are free from surface contamination, (3) the material is kept segregated from other cotton and covers in a manner satisfactory to the inspector, and (4) the waste is collected and disposed of in a manner satisfactory to the inspector.

(d) Except as provided in § 319.8-23(a)(4), compressed lint, linters, and waste, uncompressed waste derived from cotton milled in a non-cotton-producing country,[7] and covers, arriving at a port in the north for entry for exportation, vacuum fumigation, or utilization in accordance with the requirements in this subpart, may be allowed movement in Customs custody for storage at a point in the north pending such exportation, or movement to an approved mill or plant for vacuum fumigation or utilization, when there are inspectors available to supervise such storage, if the bales are free of surface contamination, if they are kept segregated from other cotton and covers in a manner satisfactory to the inspector, and if waste is collected and disposed of in a manner satisfactory to the inspector. Such lint, linters, waste, and covers shall remain under Customs custody until released by the inspector.

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[7] For the purposes of this subpart the following countries are considered as non-cotton-producing countries: Austria, Belgium, Canada, Denmark, Eire, Finland, France, Germany, Great Britain (United Kingdom), Iceland, Liechtenstein, Luxembourg, Netherlands, Norway, Portugal, Sweden and Switzerland.

(e) Importation of lint, linters, and waste from Mexico for transportation and exportation will be authorized under permit if such material is compressed before, or immediately upon entering into the United States, or is compressed while en route to the port of export at a compress specifically authorized in the permit. The ports of export which may be named in the permit shall be limited to those that have been administratively approved for such exportation. Storage of such compressed cotton may be authorized, in approved bonded warehouses in Texas.

(f) Entry of uncompressed lint, linters, and waste from Mexico may be authorized at ports named in the permit for exportation at ports within the generally infested pink bollworm regulated area or for transportation and exportation via rail to Canada under such conditions and over such routes as may be specified in the permit.

[24 FR 10788, Dec. 29, 1959, as amended at 27 FR 5390, June 7, 1962; 36 FR 24917, Dec. 24, 1971]

§ 319.8–18 Samples.

(a) Samples of lint, linters, waste, cottonseed cake, and cottonseed meal may be entered without further permit other than the authorization contained in this section, but subject to inspection and such treatment as the inspector may deem necessary. Samples which represent either such products of United States origin or such products imported into the United States in accordance with the requirements of this subpart, and which were exported from the United States, may be entered into the United States without inspection when the inspector is satisfied as to the identity of the samples.

(b) Samples of cottonseed or seed cotton may be entered subject to the conditions and requirements provided in §§ 319.8–2, 319.8–4, and 319.8–19.

(c) Bales or other containers of cotton shall not be broken or opened for sampling and samples shall not be drawn until the inspector has so authorized and has prescribed the conditions and safeguards under which such samples shall be obtained.

§ 319.8–19 Cottonseed or seed cotton for experimental or scientific purposes.

Entry of small quantities of cottonseed or seed cotton for experimental or scientific purposes may be authorized through such ports as may be named in the permit, and shall be subject to such special conditions as shall be set forth in the permit to provide adequate safeguards against pest entry.

§ 319.8–20 Importations by the Department of Agriculture.

Cotton and covers may be imported by the Department of Agriculture for experimental or scientific purposes under such conditions as may be prescribed by the Deputy Administrator of the Plant Protection and Quarantine Programs, which conditions may include clearance through the New Crops Research Branch of the Plant Science Research Division, Agricultural Research Services.

§ 319.8–21 Release of cotton and covers after 18 months' storage.

Cotton and covers, the entry of which has been authorized subject to vacuum fumigation or other treatment because of the pink bollworm only, and which have not received such treatment but have been stored for a period of 18 months or more will be released from further plant quarantine entry restrictions.

§ 319.8–22 Ports of entry or export.

When ports of entry or export are not specifically designated in this subpart but are left to the judgment of the inspector, the inspector shall designate only such ports as have been administratively approved for such entry or export.

§ 319.8–23 Treatment.

(a)(1) Vacuum fumigation as required in this subpart shall consist of fumigation, in a vacuum fumigation plant approved by the Deputy Administrator of the Plant Protection and Quarantine Programs, under the supervision of an inspector and to his satisfaction. Continued approval of the plant will be contingent upon the granting by the operator thereof, to the inspector, of access to all parts of the plant at all reasonable hours for the purpose of supervising sanitary and other operating conditions, checking the efficacy of the apparatus and chemical operations, and determining that wastage has been cleaned up and disposed of in a manner satisfactory to the inspector; and upon the maintenance at the plant of conditions satisfactory to the inspector.

(2) After cotton and covers have been vacuum fumigated they shall be so marked under the supervision of an inspector. Such material may thereafter be distributed, forwarded, or shipped without further plant quarantine entry restriction.

(3) Cotton and covers held by an importer for vacuum fumigation must be stored under conditions satisfactory to the inspector.

(4) Prompt vacuum fumigation of cotton and covers (other than high density cotton free of surface contamination) will be required at non-northern ports. Similar prompt vacuum fumigation will be required at Norfolk, Virginia, during the period June 15 to October 15 of each year, except for covers which have been used to contain only lint, linters, or waste, and the bales of which are compressed to a density of 28 or more pounds per cubic foot and are free of surface contamination.

(b) An inspector may authorize the substitution of processing, utilization, or other form of treatment for vacuum fumigation when in his opinion such other treatment, selected by him from administratively authorized procedures, will be effective in eliminating infestation of the pink bollworm.

§ 319.8–24 Collection and disposal of waste.

(a) Importers shall handle imported, unfumigated cotton and covers in a manner to avoid waste. If waste does occur, the importer or his agent shall collect and dispose of such waste in a manner satisfactory to the inspector.

(b) If, in the judgment of an inspector, it is necessary as a safeguard against risk of pest dispersal to clean railway cars, lighters, trucks, and other vehicles and vessels used for transporting such cotton or covers, or to clean piers, warehouses, fumigation plants, mills, or other premises used in connection with importation of such cotton or covers, the importer or his agent shall perform such cleaning, in a manner satisfactory to the inspector.

(c) All costs incident to such collection, disposal, and cleaning other than the services of the inspector during his regular tour of duty and at the usual place of duty, shall be borne by the importer or his agent.

§ 319.8–25 Costs and charges.

The services of the inspector during regularly assigned hours of duty and at the usual places of duty shall be furnished without cost to the importer. The Plant Protection and Quarantine Programs will not assume responsibility for any costs or charges, other than those indicated in this section, in connection with the entry, inspection, treatment, conditioning, storage, forwarding, or any other operation of any character incidental to the physical entry of an importation of a restricted material.

§ 319.8–26 Material refused entry.

Any material refused entry for noncompliance with the requirements of this subpart shall be promptly removed from the United States or abandoned bv the importer for destruction, and pending such action shall be subject to the immediate application of such safeguards against escape of plant pests as the inspector may prescribe. If such material is not promptly safeguarded by the importer, removed from the United States, or abandoned for destruction to the satisfaction of the inspector it may be seized, destroyed, or otherwise disposed of in accordance with section 10 of the Plant Quarantine Act (7 U.S.C. 164a). Neither the Department of Agriculture nor the inspector will be responsible for any costs accruing for demurrage, shipping charges, cartage, labor, chemicals, or other expenses incidental to the safeguarding or disposal of material refused entry by the inspector, nor will the Department of Agriculture or the inspector assume responsibility for the value of material destroyed.

§ 319.8–27 Applicability of Mexican Border Regulations.

The provisions in this subpart in no way affect the applicability of Part 320 of this chapter, as amended, the Mexican Border Regulations, to the entry from Mexico of railway cars or other vehicles or materials.

Subpart—Sugarcane

§ 319.15 Notice of quarantine.

(a) On and after October 1, 1934, under authority conferred by the Plant Quarantine Act approved August 20, 1912 (37 Stat. 315; 7 U.S.C. 151–167), as amended, the importation into the United States of canes of sugarcane, or cuttings or parts thereof, sugarcane leaves, the bagasse, from all foreign countries and localities, is prohibited: *Provided,* That this prohibition shall not apply to importations by the United States Department of Agriculture for scientific or experimental purposes, nor to importations of specific materials which the Department may authorize under permit on condition that they have been or are to be so treated, processed, or manufactured that, in the judgment of the Department, their entry will involve no pest risk: *Provided further,* That whenever the Deputy Administrator of the Plant Protection and Quarantine Programs shall find that existing conditions as to pest risk involved in the importation of bagasse and related sugarcane products into Guam, make it safe to modify by making less stringent the restrictions of this section with respect to such importation, he shall publish such finding in administrative instructions, specifying the manner in which the restrictions shall be made less stringent and imposing such conditions on such importation as he deems necessary to carry out the purposes of this section, whereupon such modification shall become effective.

(b) As used in this subpart, unless the context otherwise requires, the term "United States" means the States, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands of the United States.

§ 319.15a Administrative instructions and interpretation relating to entry into Guam of bagasse and related sugarcane products.

Bagasse and related sugarcane products have been so processed that, in the judgment of the Department, their importation into Guam will involve no pest risk, and they may be imported into Guam without further permit, other than the authorization contained in this paragraph. Such importations may be made without the submission of a notice of arrival inasmuch as there is available to the inspector the essential information normally supplied by the importer at the time of importation. Inspection of such importations may be made under the general authority of § 330.105(a) of this chapter. If an importation is found infected, infested, or contaminated with any plant pest and is not subject to disposal under this part, disposition may be made in accordance with § 330.106 of this chapter.

Subpart—Citrus Canker and Other Citrus Diseases

§ 319.19 Notice of quarantine.

(a) The Secretary of Agriculture, having given the public hearing required by law, declares that it is necessary, in order to prevent the introduction into the United States of the citrus canker disease (Xanthomonas citri (Hasse) Dowson), and also other citrus diseases, all of which are new to and not heretofore widely prevalent or distributed within and throughout the United States, to forbid the importation into the United States of plants or any plant part, except fruit and seeds, of all genera, species, and varieties of the subfamilies Aurantioideae, Rutoideae and Toddalioideae of the botanical family Rutaceae, from Europe, Asia, Africa, South America, Central America, North America outside of the United States, Australia, and foreign oceanic countries and islands.

(b) Hereafter the importation from the foreign countries and localities named of plants or any plant part, except fruit and seeds, of all genera, species, and varieties of the subfamilies Aurantioideae, Rutoideae, and Toddalioideae of the botanical family Rutaceae, is prohibited.

(c) This prohibition shall not apply to importations for experimental or scientific purposes by the United States Department of Agriculture upon such conditions and under such requirements as may be prescribed by Deputy Administrator of the Plant Protection and Quarantine Programs, for such importations.

(d) This prohibition shall not apply to importations into Guam of the plants and plant parts designated in paragraph (b) of this section but such importations are subject to the requirements of § 319.37-6.

(e) As used in this section unless the context otherwise requires, the term "United States" means the continental United States, Guam, Hawaii, Puerto Rico, and the Virgin Islands of the United States.

Subpart—Corn Diseases

QUARANTINE

§ 319.24 Notice of quarantine.

(a) The fact has been determined by the Secretary of Agriculture, and notice is hereby given, that maize or Indian corn (Zea mays L.) and closely related plants are subject to certain injurious diseases, especially Peronospora maydis Raciborski, Sclerospora sacchari Miyake and other downy mildews; also the Physoderma diseases of maize, Physoderma zeae-maydis Shaw, and Physoderma maydis Miyake, new to and not heretofore widely prevalent or distributed within and throughout the United States, and that these diseases occur in southeastern Asia (including India, Siam, Indo-China and China), Malayan Archipelago, Australia, New Zealand, Oceania, Philippine Islands, Formosa, Japan, and adjacent islands.

(b) On and after July 1, 1916, and until further notice, by virtue of section 7 of the act of Congress approved August 20, 1912, known as the "Plant Quarantine Act" (37 Stat. 317; 7 U.S.C. 160), the importation into the United States, in the raw or unmanufactured state, from southeastern Asia (including India, Siam Indo-China and China), Malayan Archipelago, Australia, New Zealand, Oceania, Philippine Islands, Formosa, Manchuria, Japan, and adjacent islands, of seed and all other portions of Indian corn or maize (Zea mays L.), and the closely related plants, including all species of Teosinte (Euchlaena), Jobs-tears (Coix), Polytoca, Chionachne, and Sclerachne, except for experimental or scientific purposes by the Department of Agriculture, except as provided in the regulations supplemental hereto, is prohibited: *Provided*, That whenever the Deputy Administrator of the Plant Protection and Quarantine Programs shall find that existing conditions as to pest risk involved in the importation of the articles to which the regulations supplemental thereto apply, make it safe to modify, by making less stringent, the restrictions contained in any of such regulations, he shall publish such findings in administrative instructions, specifying the manner in which the regulations shall be made less stringent, whereupon such modification shall become effective; or he may, when the public interests will permit, with respect to the importation of such articles into Guam, upon request in specific cases, authorize such importation under conditions, specified in the permit to carry out the purposes of this subpart, that are less stringent than those contained in the regulations.

(c) As used in this subpart, unless the context otherwise requires, the term "United States" means the States, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands of the United States.

§ 319.24a Administrative instructions relating to entry of corn into Guam.

Corn may be imported into Guam without further permit, other than the authorization contained in this section but subject to compliance with § 319.24-3. Such imports need not comply with the notice of arrival requirements of § 319.24-4 inasmuch as information equivalent to that in a notice of arrival is available to the inspector from another source. Section 319.24-5 shall not be applicable to importations of corn into Guam. Such importations shall be subject to inspection at the port of entry. Corn found upon inspection to contain disease infection will be subject to sterilization in accordance with methods selected by the inspector from administratively authorized procedures known to be effective under the conditions in which applied.

REGULATIONS GOVERNING ENTRY OF INDIAN CORN OR MAIZE

§ 319.24–1 Applications for permits for importation of corn.

Persons contemplating the importation of corn into the United States shall, before shipping the corn, make application for a permit, on forms provided for that purpose, to the Deputy Administrator of the Plant Protection and Quarantine Programs, Department of Agriculture, Washington, D.C., stating the name and address of the exporter, the country and locality where grown, the port of departure, the proposed port of entry, and the name and address of the importer or of the broker in the United States to whom the permit should be sent.

(Approved by the Office of Management and Budget under control number 0579-0049)

(44 U.S.C. 35)

[24 FR 10788, Dec. 29, 1959, as amended at 48 FR 57466, Dec. 30, 1983]

§ 319.24–2 Issuance of permits.

(a) Upon receipt of an application and upon approval by an inspector a permit will be issued specifying the conditions of entry and the port of entry to carry out the purposes of this subpart, and a copy will be supplied to the importer.

(b) Further permits may be refused and existing permits revoked, if the application therefor does not correctly give the locality where the corn was grown, or is false or deceptive in any material particular.

§ 319.24–3 Marking as condition of entry.

Every bag or other container of corn offered for entry shall be plainly marked with such numbers or marks as will make it easily possible to associate the bags or containers with a particular importation.

(Approved by the Office of Management and Budget under control number 0579-0049)

(44 U.S.C. 35)

[24 FR 10788, Dec. 29, 1959, as amended at 48 FR 57466, Dec. 30, 1983]

§ 319.24–4 Notice of arrival of corn by permittee.

Immediately upon the arrival of the corn at the port of entry the permittee shall submit, in duplicate, notice to the Plant Protection and Quarantine Programs, through the United States Collector of Customs, or, in the case of Guam, through the Customs officer of the Government of Guam, on forms provided for that purpose, stating the number of the permit, the number of bags or other containers of corn included in the shipment, the bag or other container numbers or marks, the country and locality where the corn was grown, the name and address of the exporter or foreign shipper, the port of departure, the date of arrival, the name of the ship or vessel, and the designation of the dock where the corn is to be landed.

(Approved by the Office of Management and Budget under control number 0579-0049)

(44 U.S.C. 35)

[24 FR 10788, Dec. 29, 1959, as amended at 48 FR 57466, Dec. 30, 1983]

§ 319.24–5 Condition of entry.

The corn shall not be removed from the port of entry, nor shall any bag or other container thereof be broken or opened, except for the purpose of sterilization, until a written notice is given to the United States Collector of Customs, or, in the case of Guam, the Customs officer of the Government of Guam, by an inspector of the Plant Protection and Quarantine Programs, that the corn has been properly sterilized and released for entry without further restrictions so far as the jurisdiction of the Department of Agriculture extends thereto. All apparatus and methods for accomplishing such sterilization must be satisfactory to the Plant Protection and Quarantine Programs. Corn will be delivered to the permittee for sterilization, upon the filing with the appropriate customs official of a bond in the amount of $5,000, or in an amount equal to the invoice value of the corn if such value is less than $5,000, with approved sureties, and conditioned upon sterilization of the corn under the supervision and the satisfaction of an inspector of the Plant Protection and Quarantine Programs; and upon the redelivery of the corn to said customs official within 40 days from the arrival of the corn at the port of entry.

Subpart—Citrus Canker-Mexico

AUTHORITY: Secs. 105, 106, and 107; 71 Stat. 32-34; 7 U.S.C. 150dd, 150ee, 150ff; secs. 5, 7, and 9; 37 Stat. 316-318; 7 U.S.C. 159, 160, 162; 7 CFR 2.17, 2.51, and 371.2(c).

SOURCE: 48 FR 53675, Nov. 28, 1983, unless otherwise noted.

§ 319.27 Prohibitions; restrictions; disposal of articles refused importation; importation for experimental or scientific purposes.[1]

(a) No person shall import any prohibited article except as otherwise provided in paragraph (d) of this section.

(b) No person shall import any restricted article unless in conformity with all of the applicable restrictions in this subpart.

(c) Any article refused importation under the provisions of 7 U.S.C. 150dd or for noncompliance with the requirements of this subpart shall be promptly removed from the United States or abandoned by the importer, and pending such action shall be subject to the immediate application of such safeguards against escape of plant pests as the inspector determines necessary to prevent the introduction into the United States of plant pests. If such article is not promptly removed from the United States or abandoned by the importer for destruction, it may be seized, destroyed, or otherwise disposed of in accordance with sections 105 and 107 of the Federal Plant Pest Act (7 U.S.C. 150dd, 150ff).

(d) An article subject to provisions of this subpart may be imported without complying with other provisions of this subpart if:

(1) Imported by the U.S. Department of Agriculture for experimental or scientific purposes;

(2) Imported at the Plant Germplasm Quarantine Center, Building 320, Beltsville Agricultural Research Center East, Beltsville, MD 20705, or at a port of entry designated by an asterisk in § 319.37-14(b);

(3) Imported pursuant to a departmental permit issued for such article and kept on file at the port of entry;

(4) Imported under conditions specified on the departmental permit and found by the Deputy Administrator to be adequate to prevent the introduction into the United States of plant pests, i.e., conditions of treatment, processing, shipment, disposal; and

(5) Imported with a departmental tag or label securely attached to the outside of the container containing the article or securely attached to the article itself if not in a container, and with such tag or label bearing a departmental permit number corresponding to the number of the departmental permit issued for such article.

§ 319.27-1 Definitions.

Terms used in the singular form in this subpart shall be construed as the plural, and vice-versa, as the case may demand. The following terms, when used in this subpart, shall be construed, respectively, to mean:

Deputy Administrator. The Deputy Administrator of the Animal and Plant Health Inspection Service, U.S. Department of Agriculture for Plant

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[1] Restricted articles are also subject to the provisions of the fruits and vegetables regulations (7 CFR 319.56 *et seq.*).

Protection and Quarantine, or any other officer or employee of the Department to whom authority to act in his/her stead has been or may hereafter be delegated.

Import. (importation, imported). To import or move into the United States.

Infested area. Any area designated as an infested area in § 319.27-2.

Inspector. Any employee of Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or other person, authorized by the Deputy Administrator in accordance with law to enforce the provisions of the regulations in this subpart.

Person. Any individual, corporation, company, society, association or other organized group.

Plant pest. The egg, pupal, and larval stages as well as any other living stage of any insects, mites, nematodes, slugs, snails, protozoa, or other invertebrate animals, bacteria, fungi, other parasitic plants or reproductive parts thereof, viruses, or any organisms similar to or allied with any of the foregoing, or any infectious substances, which can directly or indirectly injure or cause disease or damage in any plants or parts thereof, or any processed, manufactured, or other products of plants.

Plant Protection and Quarantine. The organizational unit within the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, delegated responsibility for enforcing provisions of the Plant Quarantine Act, the Federal Plant Pest Act, and related legislation, and regulations promulgated thereunder.

Prohibited article. Any article designated in § 319.27-3 as a prohibited article.

Restricted article. Any article designated in § 319.27-4 as a restricted article.

Secretary. The Secretary of Agriculture, or any other officer or employee of the Department of Agriculture to whom authority to act in his/her stead has been or may hereafter be delegated.

United States. The States, District of Columbia, American Samoa, Northern Mariana Islands, Puerto Rico, and the Virgin Islands of the United States.

§ 319.27-2 Infested areas.

The following areas in Mexico are designated as infested areas:

(a) The entire State of Colima.
(b) The entire State of Guerrero.
(c) The entire State of Michoacan.
(d) The entire municipios of Cihuatlan and Tomatlan in the State of Jalisco.

[49 FR 3059, Jan. 25, 1984]

§ 319.27-3 Prohibited articles.

The following articles are designated as prohibited articles: Any fruit or peel of Mexican lime (*Citrus aurantifolia*) from any area in Mexico, and any other fruit or peel of citrus or citrus relatives (fruit or peel of any genera, species, or varieties of the subfamilies Aurantioideae, Rutoideae, and Toddalioideae of the botanical family Rutaceae) from areas in Mexico designated as infested areas.

§ 319.27-4 Restricted articles.

Fruit or peel of the following articles from areas in Mexico not designated as infested areas are designated as restricted articles:

Ethrog (*Citrus medica*)
Grapefruit (*Citrus paradisi*)
Lemon (*Citrus limon*
Orange (*Citrus sinensis*)
Persian lime (*Citrus latifolia*)
Tangerine (*Citrus reticulata*)

§ 319.27-5 Permits.[2] [Reserved]

(Approved by the Office of Management and Budget under control number 0579-0049)

(44 U.S.C. 35)

[48 FR 53675, Nov. 28, 1983, as amended at 48 FR 57466, Dec. 30, 1983]

§ 319.27-6 Inspection and phytosanitary certificates of inspection.

A restricted article shall be accompanied at the time of importation by a phytosanitary certificate of inspection from the plant protection service of Mexico. The certificate shall be addressed to the plant protection service of the United States (Plant Protection and Quarantine), shall have been issued not more than 15 days prior to shipment of the article from Mexico, shall contain a description of the restricted article intended to be imported, and shall certify that the article has been thoroughly inspected and is believed to be free from injurious plant diseases and insect pests. If the restricted article was treated in Mexico in accordance with § 319.27-7, the phytosanitary certificate of inspection shall also contain accurate information describing that the article had been so treated. Such certificate may cover more than one article and more than one container kept together during shipment and offer for importation.

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[2] Under § 319.56-3 of the fruits and vegetables regulations (7 CFR 319.56-3), restricted articles subject to this subpart may be imported only after issuance of a written permit by Plant Protection and Quarantine. The procedures for obtaining a permit are set forth in § 319.56-3 of the fruits and vegetables regulations.

(Approved by the Office of Management and Budget under control number 0579-0049)

(44 U.S.C. 35)

[48 FR 53675, Nov. 28, 1983, as amended at 48 FR 57466, Dec. 30, 1983]

§ 319.27-7 Treatments and other requirements.

A restricted article prior to movement into the United States from the port of entry:

(a) Shall be free of leaves, litter, and stems other than stems less than one inch in length attached to fruit, and

(b) Shall have been treated in Mexico under the supervision of either an inspector or an official of the plant protection service of Mexico or shall be treated at the port of entry under the supervision of an inspector by thorough wetting with a solution containing 200 parts per million active chlorine for a period of at least two minutes.

§ 319.27-8 Marking and identity.

(a) Any restricted article at the time of importation shall plainly and correctly bear on the outer container the following information:

(1) General nature and quantity of the contents,

(2) Country or locality of origin,

(3) Name and address of shipper, owner, or person shipping or forwarding the article,

(4) Name and address of consignee,

(5) Identifying shipper's mark and number,

(6) A letter "C" within the figure of a diamond or a rectangle if the article had been treated in Mexico in accordance with § 319.27-7, and

(7) A statement, such as "origin in a citrus canker free zone," to represent origin outside of the infested areas.

(b) Any restricted article shall be accompanied at the time of importation by an invoice or packing list indicating the contents of the shipment.

§ 319.27-9 Arrival notification.

Promptly upon arrival of any restricted article at a port of entry, the importer shall notify Plant Protection and Quarantine of the arrival by such means as a manifest, Customs entry document, commercial invoice, waybill, a broker's document, or a notice form provided for that purpose.

§ 319.27-10 Costs and charges.

The services of the inspector during regularly assigned hours of duty and at the usual places of duty shall be furnished without cost to the importer.[3] Plant Protection and Quarantine will not be responsible for any costs or charges, other than those indicated in this section.

§ 319.27-11 Ports of entry.

(a) Any restricted article that was treated in Mexico in accordance with § 319.27-7 may be imported only at any port of entry listed in § 319.37-14(b) of this part.

(b) Any restricted article that was not treated in Mexico in accordance with § 319.27-7 may be imported only at the port of Laredo, Texas.

Subpart—Citrus Fruit

NOTE: Citrus nursery stock, except seeds, is prohibited entry from all foreign countries and localities by the citrus nursery stock quarantine No. 19 (§ 319.19).

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[3] Provisions relating to costs for other services of an inspector are contained in 7 CFR Part 354.

The importation from all foreign countries of fruits of citrus and citrus relatives, other than those specified in this subpart, is restricted by the provisions of fruit and vegetable quarantine No. 56 (§§ 319.56 to 319.56-8).

§ 319.28 Notice of quarantine.

(a) Under the authority conferred by sections 5, 7, and 9 of the Plant Quarantine Act of 1912 (7 U.S.C. 159, 160, 162), and having held the public hearing required thereunder, the Secretary of Agriculture does hereby declare, (1) that in order to prevent the introduction into the United States of the citrus canker disease (*Xanthomonas citri* (Hasse) Dowson) the importation into the United States of all fruits and peel of all genera, species, and varieties of the subfamilies *Aurantioideae, Rutoideae*, and *Toddalioideae* of the botanical family *Rutaceae* from eastern and southeastern Asia (including India, Burma, Ceylon, Thailand, Indochina, and China), the Malay Archipelago, the Philippine Islands, Oceania (except Australia and Tasmania), Japan and adjacent islands, Formosa, Mauritius, Seychelles, Brazil, and Paraguay is prohibited; (2) that in order to prevent the introduction into the United States of sweet orange scab (*Elsinoe australis* Bitanc. and Jenkins) the importation into the United States of fruits and peel of all species and varieties of the genus *Citrus*, including among others *Citrus aurantifolia* (Christm.) Swingle, *C. aurantium* L., *C. hystrix* DC., *C. limon* (L.) Burm. f., *C. paradisi* Macf., *C. reticulata* Blanco, and *C. sinensis* (L.) Osbeck; and *Fortunella margarita* (Lour.) Swingle, from Argentina, Brazil, Paraguay, and Uruguay, is prohibited; and (3) that in order to prevent the introduction into the United States of the bacterial disease known as "Cancrosis B" the importation into the United States of fruits and peel of all species and varieties of the genus *Citrus*, including among others *Citrus aurantifolia* (Christm.) Swingle, *C. aurantium* L., *C. limon* (L.) Burm. f., *C. medica* L., and *C. sinensis* (L.) Osbeck, from Argentina, Paraguay, and Uruguay, is prohibited: *Provided*, That seeds and processed peel of fruits designated herein are excluded from the provisions of this quarantine. Such seeds, however, are subject to the requirements of the Nursery Stock, Plant and Seed Quarantine No. 37 (§§ 319.37 to 319.37-27).

(b) This prohibition shall not apply to importations from Japan of fruits of Citrus reticulata Blanco var. Unshu (Satsuma), under permit, with destinations limited to points in the States of Alaska, Hawaii, Idaho, Montana, Oregon, and Washington: *Provided*, That each of the following safeguards is fully carried out:

(1) The Unshu oranges to be imported shall be grown and packed in isolated canker-free export areas established by the Japanese Plant Protection Service. In such areas only Unshu oranges may be grown and necessary steps shall be taken to prevent the movement into those areas from any source of fruits, peel, plants, or budwood of the genera Citrus and Poncirus, other than propagating material of *Citrus reticulata* Blanco var. Unshu (Satsuma). The isolated areas shall be determined by qualified plant pathologists of both Japan and the United States as being apparently canker-free and free of citrus trees other than Unshu oranges. These isolated areas shall be separated from other citrus groves by a buffer zone which is itself free of all non-Unshu citrus.

(2) Inspection of the Unshu oranges shall be performed jointly by plant pathologists of Japan and the United States in the groves prior to and during harvest, and in the packinghouses during packing operations.

(3) Before packing, such oranges shall be given a surface sterilization as prescribed by the U.S. Department of Agriculture.

(4) The identity of the fruit shall be maintained in the following manner:

(i) On its tissue paper wrapping, and on the individual box in which such oranges are shipped, there is to be stamped or printed a statement specifying the States into which the Unshu oranges may be imported, and from which they are prohibited removal under a Federal plant quarantine.

(ii) Each shipment of oranges handled in accordance with these procedures shall be accompanied by a certificate of the Japanese Plant Protection Service certifying that the fruit is apparently free of citrus canker disease.

(5) [Reserved]

(6) Entry shall be limited to Pacific Coast ports in the States of Alaska, Washington, and Oregon, or to ports in Hawaii, where plant quarantine inspection is available, with destinations limited to points in the States of Alaska, Hawaii, Idaho, Montana, Oregon, and Washington.

(7) Such Unshu oranges will be subject to a final examination at the port of arrival by inspectors of the U.S. Department of Agriculture before release.

(c) This prohibition shall not apply to importations for experimental or scientific purposes by the U.S. Department of Agriculture upon such conditions and under such requirements as may be prescribed in permits that may be issued by the Deputy Administrator of the Plant Protection and Quarantine Programs for such importations.

(d) Further, this prohibition shall not apply to importations into Guam of the fruits and peel designated in paragraph (a)(1) of this section.

(e) Importations allowed in paragraphs (b), (c), and (d) of this section shall be subject to the permit and other requirements under the Fruits and Vegetables Quarantine (§ 319.56).

(f) All salary, travel, and subsistence expenses incident to the assignment of personnel of the U.S. Department of Agriculture to such operations in Japan shall be paid by those requesting the service of such personnel.

(g) As used in this section unless the context otherwise requires, the term "United States" means the continental United States, Guam, Hawaii, Puerto Rico, and the Virgin Islands of the United States.

[32 FR 7959, June 2, 1967, as amended at 36 FR 24917, Dec. 24, 1971; 37 FR 7481, Apr. 15, 1972; 37 FR 23624, Nov. 7, 1972; 43 FR 13491, March 31, 1978; 50 FR 35535, Sept. 3, 1985]

Subpart—Bamboo

§ 319.34 Notice of quarantine.

(a) The fact has been determined by the Secretary of Agriculture, and notice is hereby given, that dangerous plant diseases, including the bamboo smut (Ustilago shiraiana), new to and not heretofore widely prevalent or distributed within and throughout the United States, occur in Japan, China, India, Philippine Islands, Australia, New Zealand, Oceania, Africa, Europe, South America, British West Indies, Cuba, and Central America.

(b) On and after October 1, 1918, and until further notice, by virtue of the act of Congress approved August 20, 1912, known as "The Plant Quarantine Act" (37 Stat. 315; 7 U.S.C. 151-167), the importation into the United States for any purpose of any variety of bamboo seed, plants, or cuttings thereof capable of propagation, including all genera and species of the tribe Bambuseae, from the above-named and all other foreign countries and localities, is prohibited, except for experimental or scientific purposes by the Department of Agriculture: *Provided*, that the entry for immediate export, or for immediate transportation and exportation in bond, of bamboo seed, plants, or cuttings thereof capable of propagation, including all genera and species of the tribe Bambuseae, may be permitted in accordance with §§ 352.2 through 352.8 of this chapter: *Provided, further,* That this prohibition shall not apply to importations into Guam of the bamboo seeds, plants, or cuttings designated in this paragraph but such importations are subject to the requirements of §§ 319.37-4(b) and 319.37-6.

(c) This notice of quarantine does not apply to bamboo timber consisting of the mature dried culms or canes which are imported for fishing-rod, furniture-making, or other purposes, or to any kind of article manufactured from bamboo, or to bamboo shoots cooked or otherwise preserved.

(d) As used in this subpart, unless the context otherwise requires, the term "United States" means the States, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands of the United States.

Subpart—Nursery Stock, Plants, Roots, Bulbs, Seeds, and Other Plant Products [1, 2]

AUTHORITY: Sec. 1, as amended, and secs. 3, 5, 7, 9, and 10; 37 Stat. 315-318, as amended; 45 Stat. 468 (7 U.S.C. 154, 157, 159, 160, 162, 164a); 37 Stat 854 (7 U.S.C. 155); secs. 105-107; 71 Stat. 32-34; (7 U.S.C. 150dd-150ff); 37 FR 28464, 28477 as amended; 38 FR 19141, unless otherwise noted.

SOURCE: 45 FR 31585, May 13, 1980, unless otherwise noted.

§ 319.37 Prohibitions and restrictions on importation; disposal of articles refused importation.

(a) Pursuant to section 7 of the Plant Quarantine Act (7 U.S.C. 160) and section 106 of the Federal Plant Pest Act (7 U.S.C. 150ee) the Secretary of Agriculture has determined that, in order to prevent the introduction into the United States from any foreign country or locality of certain tree, plant, and fruit diseases, or injurious insects, new to or not widely prevalent or distributed within and throughout the United States, it is necessary to prohibit the importation into the United States of certain articles from foreign countries and localities. Accordingly, no person shall import or offer for entry into the United States any article designated in § 319.37-2 (a) or (b) of this subpart from the designated foreign countries and localities, except as otherwise provided in § 319.37-2(c) of this subpart.

(b) Pursuant to sections 1 and 5 of the Plant Quarantine Act (7 U.S.C. 154, 159) and section 106 of the Federal Plant Pest Act (7 U.S.C. 150ee) the Secretary of Agriculture has determined that, in order to prevent the entry into the United States of certain injurious plant diseases, injurious insect pests, and other plant pests it is necessary to restrict the importation into the United States of certain articles from foreign countries and localities. Accordingly, no person shall import or offer for importation into the United States, any restricted article from any foreign country or locality unless in conformity with all of the applicable restrictions in this subpart.

(c) Any article refused importation for noncompliance with the requirements of this subpart shall be promptly removed from the United States or abandoned by the importer for destruction, and pending such action shall be subject to the immediate application of such safeguards against escape of injurious plant diseases, injurious insect pests and other plant pests as the inspector determines necessary to prevent the introduction into the United States of such diseases or pests. If such article is not promptly safeguarded by the importer, removed from the United States, or abandoned for destruction, it may be seized, destroyed, or otherwise disposed of in accordance with section 10 of the Plant Quarantine Act (7 U.S.C. 164a) and sections 105 and 107 of the Federal Plant Pest Act (7 U.S.C. 150dd, 150ff).

[45 FR 31585, May 13, 1980; 45 FR 35305, May 27, 1980]

§ 319.37-1 Definitions.

Terms used in the singular form in this subpart shall be construed as the plural, and vice versa, as the case may demand. The following terms, when used in this subpart, shall be construed, respectively, to mean:

Bulbs. The portion of a plant commonly known as a bulb, bulbil, bulblet, corm, cormel, rhizome, tuber, or pip, and including fleshy roots or other underground fleshy growths, a unit of which produces an individual plant.

Deputy Administrator. The Deputy Administrator of the Animal and Plant Health Inspection Service, U.S. Department of Agriculture for the

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[1] The Plant Protection and Quarantine Programs also enforces regulations promulgated under the Endangered Species Act of 1973 (Pub. L. 93-205, as amended) which contain additional prohibitions and restrictions on importation into the United States of articles subject to this subpart (See 50 CFR Parts 17 and 23).

[2] One or more common names of articles are given in parentheses after most scientific names (when common names are known) for the purpose of helping to identify the articles represented by such scientific names; however, unless otherwise specified, a reference to a scientific name includes all articles within the category represented by the scientific name regardless of whether the common name or names are as comprehensive in scope as the scientific name.

Plant Protection and Quarantine Programs, or any other officer or employee of the Department to whom authority to act in his/her stead has been or may hereafter be delegated.

Disease. The term in addition to its common meaning, includes a disease agent which incites a disease.

Earth. The softer matter composing part of the surface of the globe, in distinction from the firm rock, and including the soil and subsoil, as well as finely divided rock and other soil formation materials down to the rock layer.

Europe. The continent of Europe, the British Isles, Iceland, the Azores, and the islands in the Mediterranean Sea.

From. An article is considered to be "from" any country or locality in which it was grown. *Provided,* That an article imported into Canada from another country or locality shall be considered as being solely from Canada if it meets the following conditions:

(a) It is imported into the United States directly from Canada after having been grown for at least 1 year in Canada,

(b) It has never been grown in a country from which it would be a prohibited article or grown in a country other than Canada from which it would be subject to conditions of § 319.37-5 (c), (d), (e), (f), or (g) of this subpart, or subject to conditions of § 319.37-6 of this subpart,

(c) It was not grown in a country or locality from which it would be subject to conditions of § 319.37-7 of this subpart unless it was grown in Canada under postentry growing conditions equivalent to those specified in § 319.37-7 [3] of this subpart, and

(d) It was not imported into Canada in growing media.

Indexing. Transmitting the juices from an article suspected of being infected with a particular disease to another article known to be susceptible to such disease, by grafting or otherwise, in order to determine the presence or absence of the disease in the article suspected of being infected with such disease.

Inspector. Any employee of the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or other person, authorized by the Deputy Administrator in accordance with law to enforce the provisions of the regulations in this subpart.

Nursery stock. All field-grown florist's stock, trees, shrubs, vines, cuttings, grafts, scions, buds, fruit pits, and other seeds of fruit and ornamental trees or shrubs, and other plants and plant products for propagation, except field, vegetable, and flower seeds, bedding plants, and other herbaceous plants, bulbs, and roots.

Oceania. The islands of Micronesia, Melanesia, and Polynesia (except Hawaii, Guam, and the Northern Mariana Islands) in the central and southern Pacific Ocean.

Person. An individual, corporation, company, society, or association.

Phytosanitary certificate of inspection. A document relating to a restricted article, which is issued by a plant protection official of the country in which the restricted article was grown, which is issued not more than 15 days prior to shipment of the restricted article from the country in which grown, which is addressed to the plant protection service of the United States (Plant Protection and Quarantine Programs), which contains a description of the restricted article intended to be imported into the United States, which certifies that the article has been thoroughly inspected, is believed to be free from injurious plant diseases, injurious insect pests, and other plant pests, and is otherwise believed to be eligible for importation pursuant to the current phytosanitary laws and regulations of the United States, and which contains any specific additional declarations required under this subpart.

Plant pest. The egg, pupal, and larval stages as well as any other living stage of: Any insects, mites, nematodes, slugs, snails, protozoa, or other invertebrate animals, bacteria, fungi, other parasitic plants or reproductive parts thereof, viruses, or any organisms similar to or allied with any of the foregoing, or any infectious substances, which can directly or indirectly injure or cause disease or damage in any plants or parts thereof, or any processed, manufactured, or other products of plants.

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[3] Currently only ***Chaenomoles*** spp. (flowering quince), ***Cydonia*** spp. (quince), ***Malus*** spp. (apple, crabapple); ***Prunus*** spp. (almond, apricot, cherry, cherry laurel, English laurel, nectarine, peach, plum, prune) and ***Pyrus*** spp. (pear) are required under the laws of Canada to be grown in Canada under such equivalent conditions after importation.

Plant Protection and Quarantine Programs. The organizational unit within the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, delegated responsibility for enforcing provisions of the Plant Quarantine Act, the Federal Plant Pest Act, and related laws, and regulations promulgated thereunder.

Prohibited article. Any class of nursery stock or other class of plant, root, bulb, seed, or other plant product designated in § 319.37-2 (a) or (b) of this subpart.

Restricted article. Any class of nursery stock or other class of plant, root, bulb, seed, or other plant product, for or capable of propagation, excluding any prohibited articles listed in § 319.37-2 (a) or (b) of this subpart, excluding any articles subject to any restricted entry orders in 7 CFR Part 321. (i.e., potatoes), and excluding any articles regulated in 7 CFR 319.8 through 319.34 or 319.41 through 319.74-7.

Secretary. The Secretary of Agriculture, or any other officer or employee of the Department of Agriculture to whom authority to act in his/her stead has been or may hereafter be delegated.

Soil. The loose surface material of the earth in which plants, trees, and shrubs grow, in most cases consisting of disintegrated rock with an admixture of organic material and soluble salts.

Spp. (species). All species, clones, cultivars, strains, varieties, and hybrids, of a genus.

United States. The States, District of Columbia, Guam, Northern Mariana Islands, Puerto Rico, and the Virgin Islands of the United States.

[45 FR 31585, May 13, 1980, as amended at 50 FR 8706, Mar. 5, 1985]

§ 319.37-2 Prohibited Articles.

(a) The following listed articles from the designated countries and localities are prohibited articles and are prohibited from being imported or offered for entry into the United States except as provided in § 319.37-2(c) of this subpart.

Prohibited article (except seeds unless specifically mentioned)	Foreign country(ies) or locality(ies) from which prohibited	Tree, plant, or fruit disease, or injurious insect, or other plant pest determined as existing in the places named and capable of being transported with the prohibited article
Abies spp. (fir)	All except Canada	50 or more species of rusts including *Chrysomyxa abietis* (Wallr.) Ung. (a rust causing a serious needle disease); *Phacidiopycnis pseudotsuga* (M. Wils.) Hahn (Douglas fir canker).
Acacia spp. (acacia)	Australia and Oceania	*Uromycladium tepperianum* (Sacc.) McAlp. (Rust).
Acer spp. (maple)	Japan	*Xanthomonas acernea* (Ogawa) Burk. (leaf disease).
	Bulgaria, Federal Republic of Germany (West), France, German Democratic Republic (East), Great Britain, and Japan.	Maple-variegation virus.
Actinidia spp. (Chinese gooseberry, kiwi).	Japan and Taiwan	*Pucciniastrum actinidiae* Hiratusuka (Rust).
Adonidia spp	All	A diversity of diseases including, but not limited to: Lethal yellowing disease; Cadang-cadang disease.
Aesculus spp. (horsechestnut)	Czechoslovakia, Federal Republic of Germany (West), Great Britain, and German Democratic Republic (East).	Horsechestnut-variegation virus.
Allagoptera arenaria	All	A diversity of diseases including, but not limited to: Lethal yellowing disease; Cadang-cadang disease.
Althaea spp. (althaea, hollyhock)	Africa	Cotton leaf-curl virus.
	India	Hollyhock yellow-vein mosaic virus.
Areca spp	All	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
Arenga spp. (sugarpalm)	All	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
Arikuryroba spp. (arikury palm)	All	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
Articles listed in § 319.37-2(b)	All except Canada	A diversity of diseases, insects, and other pests, including but not limited to: *Cactoblastis cactorum* (Berg); *Metamasius* spp.; *Opogona sacchari* (Bojer); *Chrysomyxa himalensis* Barclay (Spruce needle rust); *Aecidium mori* Barclay (Mulberry rust); *Pseudomonas lignicola* Westherd. & Buis. (Bacterial stain); *Pucciniastrum areolatum* (Fr.) Otth. (Cherry-spruce rust).
Berberis spp. (barberry) (plants of all species and horticultural varieties not designated as resistant to black stem rust in accordance with § 301.38-1 of this chapter).	All	*Puccinia graminis* Pers. (Black stem rust).
Berberis spp. (barberry) destined to an eradication State listed in § 301.38-2a of this chapter (plants of all species and horticultural varieties designated as resistant to black stem rust in accordance with § 301.38-1 of this chapter).	All	*Puccinia graminis* Pers. (Black stem rust).
Berberis spp. (barberry) seed	All	*Puccinia graminis* Pers. (Black stem rust).
Borassus spp. (palmyra palm)	All	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.

Caryota spp. (fishtail palm)	All	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
Cedrus spp. (cedar)	Europe	*Phacidiopycnis pseudotsuga* (M. Wils.) Hahn (Douglas fir canker). *Fusarium fuliginosporum* Sibilia (Seedling disease).
Chaenomeles spp. (flowering quince) not meeting the conditions for importation in § 319.37-5(b).	All	A diversity of plant diseases including but not limited to items (i), (xviii), (xix), (xx), (xxi) and (xxiii) listed in § 319.37-5(b)(2).
Chrysalidocarpus spp. (butterfly palm)	All	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
Chrysanthemum spp. (chrysanthemum)	Argentina, Brazil, Europe (except Great Britain), Republic of South Africa, and all countries and localities located in part or entirely between 90° and 180° East longitude.	*Puccinia horiana* P. Henn. (White rust of chrysanthemum).
Cocos nucifera (coconut) (including seeds) (Coconut seed without husks or without milk may be imported into the United States in accordance with § 319.56 of this Part).	All except from Jamaica if meeting the conditions for importation in § 319.37-5(g).	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
Cocos spp. (other than *Cocos nucifera*).	All	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
Corypha spp.	All	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
Cydonia spp. (quince) not meeting the conditions for importation in § 319.37-5(b).	All	A diversity of diseases including but not limited to items (i), (ii), (xviii), (xix), (xx), (xxi), and (xxiii) listed in § 319.37-5(b)(2).
Datura spp.	Colombia	Datura Colombian virus.
	India	Datura distortion or enation mosaic virus.
Dictyosperma spp. (Princesspalm)	All	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
Elaeis spp. (oil palm)	All	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
Erianthus spp. (plumegrass)	All	*Puccinia melanocephala* H. Syd. & P. Syd. (Sugarcane rust).
Eucalyptus spp	Argentina	Leaf chlorosis virus.
	Europe, Sri Lanka (Ceylon), and Uruguay	*Pestalotia disseminata* Thuem. (Parasitic leaf fungus).
Euonymus spp. (euonymus)	Federal Republic of Germany (West) and German Democratic Republic (East).	Euonymus mosaic virus.
Fragaria spp. (strawberry)	Australia, Austria, Czechoslovakia, France, Great Britain, Italy, Japan, Lebanon, The Netherlands, New Zealand, Northern Ireland, Republic of Ireland, Switzerland, and Union of Soviet Socialist Republics.	*Phytophthora fragariae* Hickman (Red stele disease).
Fraxinus spp. (ash)	Europe	*Pseudomonas savastanoi* var. *fraxini* (Brown) Dowson (Canker and dwarfing disease of ash).
Gaussia spp. (llumepalm)	All	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
Gladiolus spp. (gladiolus)	Africa	*Puccinia mccleanii* Doidge (Rust); *Uredo gladioli-buettneri* Bub. (Rust); *Uromyces gladioli* P. Henn. (Rust); *U. nyikensis* Syd. (Rust).
	Africa, Italy, Malta, and Portugal	*U. transversalis* (Thuem.) Wint. (Rust).
Gossypium spp. (cotton, cottontree)	All	A diversity of diseases including but not limited to: cotton leaf curl virus; cotton virescence agent; small leaf virus.

Prohibited article (except seeds unless specifically mentioned)	Foreign country(ies) or locality(ies) from which prohibited	Tree, plant, or fruit disease, or injurious insect, or other plant pest determined as existing in the places named and capable of being transported with the prohibited article
Hibiscus spp. (hibiscus, rose mallow)	Africa	Cotton leaf curl virus.
	India	Okra yellow mosaic virus.
	Trinidad and Tobago, and Nigeria	Okra mosaic virus.
Howeia belmoreana (Sentry palm)	All	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
Hydragea spp. (hydrangea)	Japan	*Aecidium hydrangeae-paniculatea* Dietel.
Ipomoea spp. (sweetpotato)	All except Canada	A diversity of diseases including but not limited to: sweetpotato witches broom (little leaf); and sweetpotato viruses of eastern Africa.
Jasminum spp. (Jasmine)	Belgium, Federal Republic of Germany (West), German Democratic Republic (East), and Great Britain.	Jasmine-variegation virus.
Juniperus spp. (juniper)	Austria, Finland, and Romania	*Stigmina deflectans* (Karst) Ellis (Needlecast disease).
	Europe	*Phacidiopycnis pseudotsuga* (M. Wils.) Hahn (Douglas fir canker).
Larix spp. (larch)	Europe	*Phacidiopycnis pseudotsuga* (M. Wils.) Hahn (Douglas fir canker).
Latania spp	All	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
Lens spp. seed (lentil)	South America	*Uromyces viciae-fabae* (Pers.) Schroet. (Rust).
Ligustrum spp. (privet)	Federal Republic of Germany (West) and German Democratic Republic (East).	Ligustrum mosaic virus.
Livistona spp. (fan palm)	All	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
Mahoberberis spp. (plants of all species and horticultural varieties not designated as resistant to black stem rust in accordance with § 301.38-1 of this chapter).	All	*Puccinia graminis* Pers. (Black stem rust).
Mahoberberis spp. destined to an eradication State listed in § 301.38-2(a) of this chapter (plants of all species and horticultural varieties designated as resistant to black stem rust in accordance with § 301.38-1 of this chapter).	All	*Puccinia graminis* Pers. (Black stem rust).
Mahoberberis spp. seed	All	*Puccinia graminis* Pers. (Black stem rust).
Mahonia spp. (mahonia) (plants of all species and horticultural varieties not designated as resistant to black stem rust in accordance with § 301.38-1 of this chapter.	All	*Puccinia graminis* Pers. (Black stem rust).

Mahonia spp. (mahonia) destined to an eradication State listed in § 301.38–2(a) of this chapter (plants of all species and horticultural varieties designated as resistant to black stem rust in accordance with § 301.38–1 of this chapter).	All	*Puccinia graminis* Pers. (Black stem rust).
Mahonia spp. seed	All	*Puccinia graminis* Pers. (Black stem rust).
Malus spp. (apple, crabapple) not meeting the conditions for importation in § 319.37–5(b).	All	A diversity of diseases including but not limited to items (i), (ii), (iii), (vi), (vii), (viii), and (xxiii) listed in § 319.37–5(b)(2).
	Japan	*Valsa mali* Miyabe and Yamada ex. M. Miura (Branch canker fungus).
Mangifera spp. (mango) seed	All except North and South America	*Cryptorhynchus mangiferae* F. (Mango weevil).
Manihot spp. (cassava)	All except Canada	A diversity of diseases, insects, and other pests including but not limited to: *Mononychellus tanajoa* (Bondar) (cassava mite); *Phenococcus manihotis* Matile-Ferrero (cassava mealybug); *Xanthomonas manihotis* (Arthand-Berthet) Starr (Bacterial blight); Cassava brown streak virus; Cassava latent virus; Cassava African mosaic virus; Cassava common mosaic virus.
Mascarena spp	All	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
Mulberry mosaic virus	India, Japan, People's Republic of China, and Union of Soviet Socialist Republics.	A diversity of diseases including but not limited to: Mulberry dwarf agent; Mulberry curly little leaf agent; Mulberry mosiac virus.
Nannorrhops spp. (mazaripalm)	All	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
Oryza spp. (rice) (seeds are prohibited by § 319.55).	All	A diversity of diseases including but not limited to: Rice dwarf virus; Rice stripe virus; Rice yellow dwarf agent; Rice black-streaked dwarf virus; Rice tungro virus; Rice transitory yellowing virus; Rice orange leaf agent; Rice grassy stunt agent; Rice ragged stunt virus; Rice yellow mottle virus; *Melanomma glumarum* Miy.; *Oospora oryzetorum* Sacc.; *Rhynchosporium oryzae* Hashioka & Yokogi; *Xanthomonas oryzae* (Uyeda & Ishiyama) Dowson.
Persea spp. (avocado) seed	Central and South America, and Mexico	*Heilipus lauri* Boh. (Avocado weevil); *Stenoma catenifer* Wals. (Avocado seed moth); *Conotrachelus* spp.
Philadelphus spp. (mock orange)	Europe	Elm mottle virus.
Phoenix spp. (date)	All	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
Picea spp. (spruce)	Europe, Japan, and Siberia	*Chrysomyxa ledi* (Alb. & Schw.) d By var. *rhododendri* (DC) Savile. (Rhododendron-spruce needle rust).
	Europe	*Phacidiopycnis pseudotsuga* (M. Wils.) Hahn (Douglas fir canker).
Pinus spp. (pine) (2- or 3-leaved)	Europe and Japan	Cronartium flaccidium (Alb. & Schw.) Wint. (Rust causing serious stunting of hard pines.)
	Japan	Gall-forming rust.
Populus spp. (aspen, cottonwood, poplar).	Europe	*Xanthomonas populi* Ride (Canker).
Pritchardia spp	All	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.

Prohibited article (except seeds unless specifically mentioned)	Foreign country(ies) or locality(ies) from which prohibited	Tree, plant, or fruit disease, or injurious insect, or other plant pest determined as existing in the places named and capable of being transported with the prohibited article
Prunus spp. (almond, apricot, cherry, cherry laurel, English laurel, nectarine, peach, plum, prune) not meeting the conditions for importation in § 319.37-5(b).	All	A diversity of diseases including but not limited to items (i), and (ix) through (xvii) listed in § 319.37-5(b)(2).
Pseudotsuga spp. (Douglas fir)	Europe	*Phacidiopycnis pseudotsuga* (M. Wils.) Hahn (Douglas fir canker).
Pyrus spp. (pear) not meeting the conditions for importation in § 319.37-5(b).	All	A diversity of diseases including but not limited to items (i) through (v), (xxi), and (xxiii) listed in § 319.37-5(b)(2).
Quercus spp. (oak)	Japan	*Stereum hiugense* Imazeki (White rot); a gall-forming rust.
Ribes nigrum (black currant)	Australia, Province of British Columbia in Canada, Europe, and New Zealand.	Black currant reversion agent.
Rosa spp. (rose)	Australia, Italy, and New Zealand	Rose wilt virus.
Salix spp. (willow)	Federal Republic of Germany (West), German Democratic Republic (East), Great Britain, and The Netherlands.	*Erwinia salicis* (Day) Chester (Watermark disease).
Seeds of all kinds when in pulp	All except Canada	Fruit flies, or other injurious insects.
Solanum spp. (tuber bearing species only—Section Tuberarium) (potato) (including seeds but excluding potato tubers which are subject to 7 CFR Part 321).	All except Canada	Andean potato latent virus; Andean potato mottle virus; Potato mop top virus; Dulcamara mottle virus; Tomato blackring virus; Tobacco rattle virus; Potato virus Y (tobacco veinal necrosis strain); Potato purple top wilt agent; Potato marginal flavescence agent; Potato purple top roll agent; Potato witches broom agent; Stolbar agent; Parastolbar agent; Potato leaflet stunt agent; Potato spindle tuber viroid.
Sorbus spp. (mountain ash)	Federal Republic of Germany (West) and German Democratic Republic (East).	Mountain ash variegation virus.
	Australia, Japan, New Zealand, Oceania, Philippines, and People's Republic of China.	*Taphrina piri* Kusano (Leaf distortion fungus).
Syringa spp. (lilac)	Europe	Elm mottle virus.
Trachycarpus spp. (windmill palm)	All	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
Ulmus spp. (elm) (including seeds)	Europe	Elm mottle virus.
Veitchia spp	All	A diversity of diseases including but not limited to: Lethal yellowing disease; Cadang-cadang disease.
Vitis spp. (grape)	All except Canada	A diversity of diseases including but not limited to: Arabis mosaic virus; Flavescence-doree agent; Raspberry ringspot virus; Hungarian chrome mosaic virus; Strawberry latent ringspot virus; *Xanthomonas ampelina* Panagopoulos (Bacterial blight); Grapevine fanleaf virus and its strains; Grapevine leaf roll virus and its strains; Tomato black ring virus; Artichoke Italian latent virus; Grapevine vein necrosis virus.

Rice yellow dwarf agent; Rice black-streaked dwarf virus; Rice tungro virus; Rice transitory yellowing virus; Rice orange leaf agent; Rice grassy stunt agent; Rice ragged stunt virus; Rice yellow mottle virus; *Melanomma glumarum* Miy.; *Oospora oryzetorum* Sacc.; *Rhynchosporium oryzae* Hashioka & Yokogi; *Xanthomonas oryzae* (Uyeda & Ishiyama) Dowson.

(b) The following listed articles from all foreign countries and localities except Canada are prohibited articles and are prohibited from being imported or offered for entry into the United States except as provided in § 319.37-2(c) of this subpart:

(1) *Rhododendron* spp. (rhododendron and azalea) or other genera or species of similar slow growth habit, other than artificially dwarfed trees or shrubs:

(i) Exceeding 3 years of age if grown from seeds or cuttings; or

(ii) Exceeding 2 years of age after severance from the parent plant if produced by layers; or

(iii) Having more than 3 years' growth from the bud or graft if produced by budding or grafting.

(2) Any naturally dwarf or miniature form of tree or shrub exceeding 305 millimeters (approximately 12 inches) in length from the soil line.

(3) Herbaceous perennials (except epiphytes) imported in the form of root crowns or clumps exceeding 102 millimeters (approximately 4 inches) in diameter.

(4) Stem cuttings without leaves, without roots, without sprouts, and without branches (other than cactus cuttings and cuttings of epiphytes) exceeding 102 millimeters (approximately 4 inches) in diameter or exceeding 1.83 meters (approximately 6 feet) in length; and stem cuttings of epiphytes with or without aerial roots (without leaves, without sprouts, and without branches) exceeding 102 millimeters (approximately 4 inches) in diameter or exceeding 1.83 meters (approximately 6 feet) in length.

(5) Cactus cuttings (without roots or branches) exceeding 153 millimeters (approximately 6 inches) in diameter or exceeding 1.22 meters (approximately 4 feet) in length.

(6) Plants (other than stem cuttings, cactus cuttings, and artificially dwarfed plants) exceeding 460 millimeters (approximately 18 inches) in length from soil line (top of rooting zone for plants produced by air layering) to the farthest terminal growing point and whose growth habits simulate the woody character of trees and shrubs, including but not limited to cacti, cycads, yuccas, and dracaenas.

(7) Any tree or shrub of a type not listed above, other than an artificially dwarf tree or shrub, and:

(i) Exceeding 2 years of age if grown from seeds or cuttings; or

(ii) Exceeding 1 year of age after severance from the parent plant if produced by layers; or

(iii) Having more than 2 years' growth from the bud or graft if produced by budding or grafting.

(c) Any article listed as a prohibited article in paragraph (a) or (b) of this section may be imported or offered for entry into the United States if:

(1) Imported by the United States Department of Agriculture for experimental or scientific purposes;

(2) Imported at the Plant Germplasm Quarantine Center, Building 320, Beltsville Agricultural Research Center East, Beltsville, MD 20705 or at a port of entry designated by an asterisk in § 319.37-14(b);

(3) Imported pursuant to a Departmental permit issued for such article and kept on file at the port of entry;

(4) Imported under conditions specified on the Departmental permit and found by the Deputy Administrator to be adequate to prevent the introduction into the United States of tree, plant, or fruit diseases, injurious insects, and other plant pests, i.e., conditions of treatment, processing, growing, shipment, disposal; and

(5) Imported with a Departmental tag or label securely attached to the outside of the container containing the article or securely attached to the article itself if not in a container, and with such tag or label bearing a Departmental permit number corresponding to the number of the Departmental permit issued for such article.

[45 FR 31585, May 13, 1980; 45 FR 35305, May 27, 1980]

§ 319.37-3 Permits.

(a) The restricted articles (other than articles for food, analytical, medicinal, or manufacturing purposes) in any of the following categories may be imported or offered for importation into the United States only after issuance of a written permit by the Plant Protection and Quarantine Programs:

(1) Articles subject to treatment and other requirements of § 319.37-6;

(2) Articles subject to the postentry quarantine conditions of § 319.37-7;

(3) Bulbs of *Allium sativum* (garlic);

(4) Articles of *Cocos nucifera* (coconut); and articles (except seeds) of *Dianthus* spp. (carnation, sweet-william) from any country or locality except Canada;

(5) Lots of 13 or more articles (other than seeds, bulbs, or sterile cultures of orchid plants) from any country or locality except Canada;

(6) Seeds of trees or shrubs from any country or locality except Canada;

(7) Articles (except seeds) of *Malus* spp. (apple, crabapple), *Pyrus* spp. (pear), *Prunus* spp. (almond, apricot, cherry, cherry laurel, English laurel, nectarine, peach, plum, prune), *Cydonia* spp. (quince), *Chaenomeles* spp. (flowering quince), and *Rubus* spp. (cloudberry, blackberry, boysenberry, dewberry, loganberry, raspberry), from Canada;

(8) Articles (except seeds) of *Castanea* spp. (chestnut) or *Castanopsis* spp. (chinquapin) destined to California or Oregon;

(9) Articles (except seeds) of *Pinus* spp. (pine), (5-leaved) destined to Wisconsin;

(10) Articles of *Ribes* spp. (currant, gooseberry), (including seeds) destined to Massachusetts, New York, West Virginia, or Wisconsin;

(11) Articles (except seeds) of *Planera* spp. (water elm, planer) or *Zelkova* spp. from Europe, Canada, St. Pierre Island, or Miquelon Island and destined to California, Nevada, or Oregon;

(12) Seeds of *Prunus* spp. (almond, apricot, cherry, cherry laurel, English laurel, nectarine, peach, plum, prune) from Canada and destined to Colorado, Michigan, New York, Washington, or West Virginia;

(13) Articles (except seeds) of *Vitis* spp. (grape) from Canada and destined to California, New York, Ohio, Oregon, and Washington;

(14) Articles (except seeds) of *Corylus* spp. (filbert, hazel, hazelnut, cobnut) from provinces east of Manitoba in Canada and destined to Oregon or Washington;

(15) Articles (except seeds) of *Pinus* spp. (pine) from Canada and destined to California, Idaho, Montana, Oregon, or Utah; and

(16) Articles (except seeds) of *Ulmus* spp. (elm) from Canada and destined to California, Nevada, or Oregon.

(b) An application for a written permit should be submitted to the Plant Protection and Quarantine Programs (Permit Unit, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Federal Building, Hyattsville, MD 20782) at least 30 days prior to arrival of the article at the port of entry. The completed application shall include the following information:[4]

(1) Name, address, and telephone number of the importer;

(2) Approximate quantity and kinds (botanical designations) of articles intended to be imported;

(3) Country(ies) or locality(ies) where grown;

(4) Intended United States port of entry;

(5) Means of transportation, e.g., mail, airmail, express, air express, freight, airfreight, or baggage; and

(6) Expected date of arrival.

(c) After receipt and review of the application by Plant Protection and Quarantine Programs, a written permit indicating the applicable conditions for importation under this subpart shall be issued for the importation of articles described in the application if such articles under the conditions specified in the application appear to be eligible to be imported into the United States. Even though a written permit has been issued for the importation of an article, such article may be imported only if all applicable requirements of this subpart are met and only if an inspector at the port of entry determines that no emergency measures pursuant to section 105 of the Federal Plant Pest Act (7 U.S.C.

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[4] Application forms are available without charge from the Permit Unit, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Federal Building, Hyattsville, MD 20782, or local offices which are listed in telephone directories.

150ee) are necessary with respect to such article.[5]

(d) Any permit which has been issued may be withdrawn by an inspector or the Deputy Administrator if he/she determines that the holder thereof has not complied with any condition for the use of the document. The reasons for the withdrawal shall be confirmed in writing as promptly as circumstances permit. Any person whose permit has been withdrawn may appeal the decision in writing to the Deputy Administrator within ten (10) days after receiving the written notification of the withdrawal. The appeal shall state all of the facts and reasons upon which the person relies to show that the permit was wrongfully withdrawn. The Deputy Administrator shall grant or deny the appeal, in writing, stating the reasons for the decision as promptly as circumstances permit. If there is a conflict as to any material fact, a hearing shall be held to resolve such conflict.

(e) Any restricted article not designated in paragraph (a) of this section may be imported or offered for importation into the United States only after issuance of an oral permit for importation issued by an inspector at the port of entry.

(f) An oral permit for importation of an article shall be issued at a port of entry by an inspector only if all applicable requirements of this subpart are met, such article is eligible to be imported under an oral permit, and an inspector at the port of entry determines that no emergency measures pursuant to section 105 of the Federal Plant Pest Act (7 U.S.C. 150ee) are necessary with respect to such article.[5]

(Approved by the Office of Management and Budget under control number 0579-0049)

(44 U.S.C. 35)

[45 FR 31585, May 13, 1980, as amended at 48 FR 57466, Dec. 30, 1983]

§ 319.37-4 Inspection and phytosanitary certificates of inspection.

(a) Any restricted article grown in a country maintaining an official system of inspection for the purpose of determining whether such article is free from injurious plant diseases, injurious insect pests, and other plant pests shall be accompanied by a phytosanitary certificate of inspection from the plant protection service of such country at the time of importation or offer for importation into the United States. Such certificate may cover more than one article and more than one container kept together during shipment and offer for importation (except for shipments by mail). Each package containing a restricted article for shipment by mail from a country maintaining such a system of inspection shall be accompanied by an original or a copy of the certificate.

(b) Any restricted article accompanied by a valid phytosanitary certificate of inspection is subject to inspection by an inspector at the time of importation into the United States for the purpose of determining whether such article is free of injurious plant diseases, injurious insect pests, and other plant pests, and whether such article is otherwise eligible to be imported into the United States.

(c) Any restricted article grown in a country not maintaining an official system of inspection for the purpose of determining whether such article is free from injurious plant diseases, injurious insect pests, and other plant pests shall be inspected by an inspector at the time of importation into the

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[5] Section 105 of the Federal Plant Pest Act (7 U.S.C. 150ee) provides, among other things, that the Secretary of Agriculture may, whenever he deems it necessary as an emergency measure in order to prevent the dissemination of any plant pest new to or not theretofore known to be widely prevalent or distributed within and throughout the United States, seize, quarantine, treat, apply other remedial measures to, destroy, or dispose of, in such manner as he deems appropriate, subject to provisions in section 105 (b) and (c) of the Act (7 U.S.C. 150ee (b) and (c)), any product or article, including any articles subject to this subpart, which is moving into or through the United States, and which he has reason to believe was infested or infected by or contains any plant pest at the time of such movement. Section 10 of the Plant Quarantine Act (7 U.S.C. 164a) and sections 105 and 107 of the Federal Plant Pest Act (7 U.S.C. 150dd, 150ff) also authorize emergency measures against prohibited and restricted articles which are not in compliance with the provisions of this subpart.

United States for the purpose of determining whether such article is free of such diseases and pests and whether such article is otherwise eligible to be imported into the United States.

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(44 U.S.C. 35)

[45 FR 31585, May 13, 1980, as amended at 48 FR 57466, Dec. 30, 1983]

§ 319.37-5 Special foreign inspection and certification requirements.

(a) Any restricted article (except seeds; unrooted cuttings; articles collected from the wild; and articles solely for food, analytical, or manufacturing purposes) from a country listed below, at the time of importation or offer for importation into the United States shall be accompanied by a phytosanitary certificate of inspection which shall contain an accurate additional declaration that such article was grown on land which has been sampled and microscopically inspected by the plant protection service of the country in which grown within 12 months preceding issuance of the certificate and found free from potato cyst nematodes, *Globodera rostochiensis* (Woll.) Behrens and *G. pallida* (Stone) Behrens:

Algeria, Argentina, Austria, Azores, Belgium, Bolivia, Canada (only that portion comprising Newfoundland, and the Land District of South Saanich on Vancouver Island in British Columbia), Channel Islands, Chile, Colombia, Czechoslovakia, Denmark (including Faeroe Islands), Ecuador, Federal Republic of Germany (West), Finland, France, German Democratic Republic (East), Great Britain, Greece, Guernsey, Iceland, India, Ireland, Israel, Italy, Japan, Jersey, Lebanon, Luxembourg, Mexico, The Netherlands, New Zealand, Northern Ireland, Norway, Panama, Peru, Poland, Portugal, South Africa, Spain (including Canary Islands), Sweden, Switzerland, Union of Soviet Socialist Republics, Venezuela, and Yugoslavia.

(b)(1) Any restricted article (except seeds) of *Chaenomeles* spp. (flowering quince), *Cydonia* spp. (quince), *Malus* spp. (apple, crabapple), *Prunus* spp. (almond, apricot, cherry, cherry laurel, English laurel, nectarine, peach, plum, prune), and *Pyrus* spp. (pear), at the time of importation or offer for importation into the United States, shall be accompanied by a phytosanitary certificate of inspection which shall contain an accurate additional declaration that such article was grown in a nursery in Belgium, Canada, France, Federal Republic of Germany (West), The Netherlands, or Great Britain, and found by the plant protection service of the country in which grown to be free of injurious plant diseases (i.e., for *Chaenomeles* items (i), (xviii), (xix), (xx), and (xxi) listed in paragraph (b)(2) of this section; for *Cydonia* items (i), (xviii), (xix), (xx), and (xxi) listed in paragraph (b)(2) of this section; for *Malus* items (i), (iii), (vi), (vii), (viii), and (xxiii) listed in paragraph (b)(2) of this section; for *Prunus* items (i), and (ix) through (xvii) listed in paragraph (b)(2) of this section; for *Pyrus* items (i), (iii), (iv), (v), (xxi), and (xxiii) listed in paragraph (b)(2) of this section) based on the testing of parent stock by visual examination and indexing, and that such article was grown in a nursery free of any such specified plant diseases; *except that* an accurate declaration on the phytosanitary certificate of inspection that a disease does not occur in a country in which the article was grown may be used in lieu of visual examination and indexing of the parent stock for that disease.[6]

(2) List of diseases.

(i) *Monilinia fructigena* (Aderh. & Ruhl.) Honey (Brown rot of fruit).

(ii) *Guignardia piricola* (Nose) Yamomoto (Leaf, branch, and fruit disease).

(iii) Apple proliferation agent.

(iv) Pear blister canker virus.

(v) Pear bud drop virus.

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[6] In all of the listed countries, indexing of parent stock for species of *Prunus* not immune to plum pox (i.e., other than *Prunus avium, P. cerasus, P. mahaleb, P. padus, P. serotina, P. serrula, P. serrulata, P. subhirtella, P. laurocerasus, P. virginiana, P. effusa, P. sargentii, P. yedoensis*) is currently done only at government operated nurseries (research stations). In France, all indexing of parent stock for all *Chaenomeles* spp., *Cydonia* spp., *Malus* spp., *Prunus* spp., and *Pyrus* spp. is currently done only at government operated nurseries (research stations).

(vi) *Diaporthe mali* Bres. (Leaf, branch & fruit fungus).

(vii) Apple green crinkle virus.

(viii) Apple chat fruit virus.

(ix) Plum pox (=Sharka) virus.

(x) Cherry leaf roll virus.

(xi) Cherry rusty mottle (European) agent.

(xii) Apricot chlorotic leaf roll agent.

(xiii) Plum bark split virus.

(xiv) Arabis mosaic virus and its strains.

(xv) Raspberry ringspot virus and its strains.

(xvi) Tomato blackring virus and its strains.

(xvii) Strawberry latent ringspot virus and its strains.

(xviii) Quince sooty ringspot agent.

(xix) Quince yellow blotch agent.

(xx) Quince stunt agent.

(xxi) *Gymnosporangium asiaticum* Miyabe ex. Yamada (Rust).

(xxii)*Valsa mali* Miyabe and Yamada ex. Miura (Branch canker fungus).

(xxiii) Apple ringspot virus.

(c) Any restricted article (except seeds) of *Chrysanthemum* spp. (chrysanthemum) from Great Britain or from any other country or locality except Europe (other than Great Britain) Argentina, Brazil, Canada, Republic of South Africa, and all countries and localities located in part or entirely between 90° and 180° East longitude shall at the time of importation or offer for importation into the United States be accompanied by a phytosanitary certificate of inspection containing an accurate additional declaration that such articles was grown in a greenhouse nursery and found by the plant protection service of the country in which grown to be free from white rust disease (caused by the rust fungus, *Puccinia horiana* P. Henn.) based on visual examination of the parent stock, of the articles for importation, and of the greenhouse nursery in which the articles for importation and the parent stock are grown, once a month for 4 consecutive months immediately prior to importation.

(d) Any restricted article (except seeds) of *Dianthus* spp. (carnation, sweet-william from Great Britain shall be grown under postentry quarantine conditions specified in § 319.37-7(c) unless at the time of importation or offer for importation into the United States the phytosanitary certificate of inspection accompanying such article contains an accurate additional declaration that such article was grown in a greenhouse nursery in Great Britain and found by the plant protection service of Great Britain to be free from injurious plant diseases caused by *Phialophora cinerescens* (Wr.) van Beyma (=*Verticillium cinerescens* Wr.), carnation etched ring virus, carnation "streak" virus, and carnation "fleck" virus, based on visual examination of the parent stock, of the articles for importation, and of the greenhouse nursery in which the articles for importation and the parent stock are grown, once a month for 4 consecutive months immediately prior to importation, and based on indexing of the parent stock.

(e) Any restricted article (except seeds) of *Rubus* spp. (cloudberry, blackberry, boysenberry, dewberry, loganberry, raspberry) from Ontario, Canada, shall be grown under postentry quarantine conditions specified in § 319.37-7 unless at the time of importation or offer for importation into the United States the phytosanitary certificate of inspection accompanying such article contains an accurate additional declaration that such article was found by the plant protection service of Canada to be free of rubus stunt virus based on visual examination and indexing of the parent stock.[7]

(f) Any restricted article (except seeds) of *Rubus* spp. (cloudberry, blackberry, boysenberry, dewberry, loganberry, raspberry) from Europe at the time of importation or offer for importation into the United States shall be accompanied by a phytosanitary certificate of inspection which shall contain an accurate additional declaration that such article was found by the plant protection service of the country of origin to be free of rubus stunt virus based on visual examination and indexing of the parent stock.

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[7] Such testing is done under the Raspberry Plant Certification Program of Ontario, Canada.

(g) Any seed of *Cocos nucifera* (coconut) at the time of importation or offer for importation into the United States shall be accompanied by a phytosanitary certificate of inspection which shall contain an accurate additional declaration that such seed was found by the plant protection service of Jamacia to be of Malayan dwarf variety or Maypan variety (=F_1 hybrid, Malayan Dwarf x Panama Tall) (which are resistant to lethal yellowing disease) based on visual examination of the parent stock.

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(44 U.S.C. 35)

[45 FR 31585, May 13, 1980; 45 FR 35305, May 27, 1980, as amended at 45 FR 53450, Aug. 12, 1980; 45 FR 81531, Dec. 11, 1980; 48 FR 57466, Dec. 30, 1983]

§ 319.37-6 Specific treatment and other requirements.

(a) Seeds of *Hibiscus* spp. (hibiscus, rose mallow) and seeds of *Abelmoschus* spp. (okra), from any foreign country or locality, at the time of importation into the United States, shall be treated for possible infestation with *Pectinophora gossypiella* (Saunders) (pink bollworm) in accordance with the applicable provisions of the Plant Protection and Quarantine Treatment Manual.[8]

(b) Seeds of *Lathyrus* spp. (sweet pea, peavine); *Lens* spp. (lentil); and *Vicia* spp. (fava bean, vetch) from countries and localities other than those in North America and Central America, at the time of importation into the United States, shall be treated for possible infestation with insects of the family Bruchidae in accordance with the applicable provisions of the Plant Protection and Quarantine Treatment Manual.[8]

(c) Because of possible infestation with *Aleurocanthus woglumi* (Ashby) (citrus blackfly), any restricted article (except seeds) of genera and species listed below from any country or locality (other than Canada, Europe, or any other country or locality bordering on the Mediterranean Sea) shall be: (1) Defoliated before arrival at a port of entry in the United States; or (2) treated in accordance with the applicable provisions of the Plant Protection and Quarantine Treatment Manual, [8] at the time of importation into the United States.

Achras (see Manilkara)
Anacardium (cashew, maranon)
Annona (cherimoya, soursop, custard apple, sweetsop)
Ardisia
Bouvardia
Bumelia
Bursera
Buxus (boxwood)
Capsicum (pepper)
Cardiospermum (heartseed)
Cedrela
Cestrum
Cnidoscolus (tread-softly)
Coffea (coffee)
Crataegus (hawthorne)
Diospyros (persimmon)
Duranta (skyflower)
Eugenia (malay apple, Surinam cherry)
Fraxinus (ash)
Hibiscus (hibiscus, rosemallow)
Hura (sandbox tree)
Ixora (ixora)
Jatropha (nettlespurge)
Lagerstroemia (crepe myrtle)
Magnolia (magnolia)
Mammea (mamey apple)
Mangifera (mango)
Manilkara (Achras) (sapodilla)
Melia (chinaberry)
Myroxylon (balm tree)
Myrtus (myrtle)
Persea (avocado)
Plumeria (plumeria)
Populus (poplar, cottonwood, aspen)
Pouteria (*Calocarpum*) (sapote, mamey sapote)
Psidium (guava)
Punica (pomegranate)
Sapindus (soapberry)
Solandra (chalicevine)
Spondias (mombin, jobo plum, hog plum)
Strelitzia (bird of paradise)
Tabebuia (trumpet tree)
Zingiber (ginger)

(d) Seeds of alfalfa and related plants (i.e., *Medicago falcata, M. gaetula, M. glutinosa, M. media, M.*

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[8] The Plant Protection and Quarantine Treatment Manual has been incorporated by reference on June 15, 1978, and is available upon request to the Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, and is on file at the Office of the Federal Register.

sativa) from Europe, at the time of importation into the United States shall be treated for possible infection with *Verticillium alboatrum* Reinke & Berthold by dusting with Arasan 50 (50 percent Thiram) at a rate of 8 ounces (approximately 226.8 grams) per 100 pounds (approximately 45.36 kilograms) of seeds, or by treating with a slurry of Arasan 50 Red at a rate of 8 ounces (approximately 226.8 grams) per pint (approximately 473.12 cubic centimeters) of water per 100 pounds (approximately 45.36 kilograms) of seeds.

(e) Seeds of *Glycine* spp. (soybean); *Dolichos* spp. (lablab); *Pachyrhizus* spp. (yam bean root, jicama); *Phaseolus* spp. (bean); *Pueraria* spp. (Chinese yam, kudzu bean, kudzu vine); and *Vigna* spp. (cowpea, catjang, asparagus bean, black-eyed pea, moth bean, adzuki bean) from Africa, Australia, Brazil, Burma, Cambodia, People's Republic of China, Costa Rica, India, Indonesia, Japan, Korea, Laos, Malaysia, Nepal, New Caledonia, Papua New Guinea, Philippines, Sri Lanka (Ceylon), Taiwan, Thailand, Union of Soviet Socialist Republics, Venezuela, Vietnam, or the West Indies, at the time of importation into the United States shall be treated for possible infection with *Phakopsora pachyrhizi* Syd. (soybean rust) by dusting with Patterson's Multipurpose Fungicide (a zineb-captan formulation) at the rate of 1.05 ounces (approximately 29.77 grams) actual zineb per bushel (approximately 35.24 liters) or by treating with a slurry of Patterson's Multipurpose Fungicide at the rate of 0.74 ounces (approximately 20.98 grams) actual zineb per bushel (approximately 35.24 liters) of seeds.

(f) Bulbs of *Allium sativum* (garlic) from Algeria, Austria, Czechoslovakia, Egypt, France, Greece, Hungary, Iran, Israel, Italy, Morocco, Portugal, Republic of South Africa, Spain, Switzerland, Syria, Turkey, Union of Soviet Socialist Republics, Federal Republic of Germany (West), or Yugoslavia at the time of importation into the United States shall be treated for possible infestation with *Brachycerus* spp. and *Dyspessa ulula* (Bkh.) in accordance with the applicable provisions of the Plant Protection and Quarantine Treatment Manual.[8]

[45 FR 31585, May 13, 1980; 45 FR 35305, May 27, 1980, as amended at 45 FR 49504, July 25, 1980]

§ 319.37-7 Postentry quarantine.

(a) The following restricted articles from the designated countries and localities: (1) May be imported or offered for importation into the United States only after a completed postentry quarantine agreement, as provided in paragraph (c) of this section, has been submitted to the Plant Protection and Quarantine Programs, and (2) shall be grown under postentry quarantine conditions specified in paragraph (c) of this section:

Restricted Article (excluding seeds)	*Foreign Country(ies) or Locality(ies) from which imported*
Acacia spp. (acacia)	All except Australia, Canada, and Oceania.
Acer spp. (maple)	All except Bulgaria, Canada, Federal Republic of Germany (West), France, German Democratic Republic (East), Great Britain, and Japan.
Actinidia spp. (Chinese gooseberry, kiwi).	All except Australia, Canada, Japan, New Zealand, and Taiwan.
Aesculus spp. (horsechestnut).	All except Canada, Czechoslovakia, Federal Republic of Germany (West), German Democratic Republic (East), and Great Britain.
Althaea spp. (althaea, hollyhock).	All except Africa, Canada, and India.
Berberis spp. (barberry) destined to any State except the eradication States listed in § 301.38-2a of this chapter (plants of all species and horticultural varieties designated as resistant to black stem rust in accordance with § 301.38-1 of this chapter).	All.
Bromeliaceae (bromeliads) destined to Hawaii.	All.
Cedrus spp. (cedar)	All except Canada and Europe.
Chaenomeles spp. (flowering quince) meeting the conditions for importation in § 319.37-5(b).	Countries listed in § 319.37-5(b) except Canada.

Restricted Article (excluding seeds)	*Foreign Country(ies) or Locality(ies) from which imported*
Chrysanthemum spp. (chrysanthemum).	Great Britain and all other countries and localities except Argentina, Brazil, Canada, Europe (other than Great Britain), Republic of South Africa, and all countries and localities located in part or entirely between 90° and 180° East longitude.
Crataegus monogyna Jacq. (hawthorne, thorneapple, red haw).	Europe.
Cydonia spp. (quince) meeting the conditions for importation in § 319.37-5(b).	Countries listed in § 319.37-5(b) except Canada.
Datura spp.	All except Canada, Colombia and India.
Dianthus spp. (carnation, sweet-william).	Great Britain, unless exempted from postentry quarantine conditions pursuant to § 319.37-5(d), and all other countries and localities except Canada.
Eucalyptus spp. (eucalyptus).	All except Argentina, Canada, Europe, Sri Lanka (Ceylon), and Uruguay.
Euonymus spp. (euonymus)	All except Canada, Federal Republic of Germany (West), and German Democratic Republic (East).
Fragaria spp. (strawberry).	All except Australia, Austria, Canada, Czechoslovakia, France, Great Britain, Italy, Japan, Lebanon, The Netherlands, New Zealand, Northern Ireland, Republic of Ireland, Switzerland, and Union of Soviet Socialist Republics.
Fraxinus spp (ash)	All except Canada and Europe.
Fruit and nut articles listed by common name in paragraph (b) of this section.	All except Canada.
Gladiolus spp. (gladiolus) except bulbs.	All except Africa, Canada, Italy, Malta, and Portugal.
Hibiscus spp. (hibiscus, rosemallow).	All except Africa, Canada, India, and Trinidad and Tobago.
Humulus spp. (hops)	All.
Hydrangea spp. (hydrangea).	All except Canada and Japan.
Jasminum spp. (jasmine).	All except Belgium, Canada, Federal Republic of Germany (West), German Democratic Republic (East), and Great Britain.
Juniperus spp. (juniper)	All except Canada and Europe.
Larix spp. (larch)	All except Canada and Europe.
Ligustrum spp. (privet)	All except Canada, Federal Republic of Germany (West), and German Democratic Republic (East).
Mahoberberis spp. destined to any State except the eradication States listed in § 301.38-2a of this chapter (plants of all species and horticultural varieties designated as resistant to black stem rust in accordance with § 301.38-1 of this chapter).	All.
Mahonia spp. (mahonia) destined to any State except the eradication States listed in § 301.38-2a of this chapter (plants of all species and horticultural varieties designated as resistant to black stem rust in accordance with § 301.38-1 of this chapter).	All.
Malus spp. (apple, crabapple) meeting the conditions for importation in § 319.37-5(b).	Countries listed in § 319.37-5(b) except Canada.
Mespilus germanica (medlar).	Countries listed in § 319.37-5(b) except Canada.
Morus spp. (mulberry)	All except Canada, India, Japan, People's Republic of China, and Union of Soviet Socialist Republics.
Nut and fruit articles (see fruit and nut articles)	
Passiflora spp. (passion fruit, granadilla).	All except Canada.
Philadelphus spp. (mock orange).	All except Canada and Europe.
Picea spp. (spruce)	All except Canada, Europe, Japan, and Siberia.
Pinus spp. (pine) (2-or-3 leaved).	All except Canada, Europe, and Japan.
Populus spp. (aspen, cottonwood, poplar).	All except Canada and Europe.
Prunus spp. (almond, apricot, cherry, cherry laurel, English laurel, nectarine, peach, plum, prune) meeting the conditions for importation in § 319.37-5(b).	Countries listed in § 319.37-5(b) except Canada.
Pseudotsuga spp. (Douglas fir).	All except Canada and Europe.
Pyrus spp. (pear) meeting the conditions for importation in § 319.37-5(b).	Countries listed in § 319.37-5(b) except Canada.
Quercus spp. (oak)	All except Canada and Japan.
Ribes nigrum (black currant).	All except Australia, Canada, Europe, and New Zealand.
Rosa spp. (rose)	All except Australia, Canada, Italy, and New Zealand.

Restricted Article (excluding seeds)	*Foreign Country(ies) or Locality(ies) from which imported*
Rubus spp. (cloudberry, blackberry, boysenberry, dewberry, loganberry, raspberry).	All unless exempted from postentry quarantine conditions pursuant to § 319.37-5(e).
Salix spp. (willow)	Europe except Federal Republic of Germany (West), German Democratic Republic (East), Great Britain, and The Netherlands.
Sorbus spp. (mountain ash).	All except Australia, Canada, Federal Republic of Germany (West), German Democratic Republic (East), Japan, New Zealand, People's Republic of China, Philippines, and Oceania.
Syringa spp. (lilac)	All except Canada and Europe.
Ulmus spp. (elm)	All except Canada and Europe.

(b) *Fruit and Nut Articles* (common names are listed after scientific names).

Achras—(Synonym for *Manilkara*)

Annona—custard apple, cherimoya, sweetsop, sugarapple, soursop, bullock's heart, alligator apple, suncoya, ilama, guanabana, pond apple

Anacardium—cashew

Artocarpus—breadfruit, jackfruit

Averrhoa—carambola

Blighia—akee

Bouea—kundangan

Calocarpum—sapote

Carica—papaya, pawpaw

Carissa—natal plum

Carya—hickory, pecan

Castanea—chestnut

Ceratonia—St. Johnsbread

Chrysobalanus—coco plum

Chrysophyllum—starapple

Coccoloba—sea-grape, pigeon plum

Corylus—filbert, hazel, hazelnut, cobnut

Crataegus—hawthorne

Diospyros—persimmon, kaki, mabola

Durio—durian

Eriobotrya—loquat, Japanese medlar, Japanese plum

Euphoria—longan

Eugenia—roseapple, Malayapple, Curacaoapple

Feijoa—feijoa, pineapple guava

Ficus—fig

Garcinia—mangosteen, gourka

Juglans—walnut, butternut, heartnut, regranut, buartnut

Lansium—langsat

Litchi—lychee, leechee

Macadamia—macadamia nut, queensland nut

Malpighia—Barbados cherry

Mammea—mammeapple, mamey

Mangifera—mango

Manilkara—sapodilla

Melicoccus—honeyberry, mamoncilla, spanish lime, genip

Nephelium—rambutan, pulasan

Olea—olive

Persea—avocado, alligator pear

Phoenix—date

Phyllanthus—otaheite-gooseberry

Pistacia—pistachio

Pouteria—lucuma

Psidium—guava, guavala

Punica—pomegranate, granada

Pyronia—quinpear

Rhodomyrtus—hill gooseberry, rose myrtle

Ribes (other than *Ribes nigrum*)—red currant, white currant, gooseberry

Spondias—yellow mombin, red mombin, hog plum

Syzygium—Malayapple, rose apple, java plum

Theobroma—cacao

Vaccinium—blueberry, cranberry

Ziziphus—jujube

(c) Any restricted article required to be grown under postentry quarantine conditions shall be grown under the supervision and control of a person who has signed a postentry quarantine agreement to comply with the following conditons for the period of time specified below:

(1) To grow such article or increase therefrom only on specified premises;

(2) To permit an inspector to have access to the specified premises for inspection of such article during regular business hours;

(3) To keep the article and any increase therefrom identified with a label showing the name of the article, port accession number, and date of importation;

(4) To keep the article separated from any domestic plant or plant product of the same genus by no less than 3 meters (approximately 10 feet); and from any other imported plant or plant product by the same distance;

(5) To allow or apply remedial measures (including destruction) determined by an inspector to be necessary to prevent the spread of an injurious plant disease, injurious insect pest, or other plant pest;

(6) To notify Plant Protection and Quarantine Programs if any abnormality of the article is found or if the article dies;

(7) To grow the article or increase therefrom, if an article of *Rubus* spp. (cloudberry, blackberry, boysenberry,

dewberry, loganberry, raspberry) from Europe, only in a screenhouse with screening of a minimum of 16 mesh per inch;

(8) To grow the article or increase therefrom, if an article of *Chrysanthemum* spp. (chrysanthemum) or *Dianthus* spp. (carnation, sweet-william), only in a greenhouse or other enclosed building; and

(9) To comply with the above conditions for a period of 6 months after importation for an article of *Chrysanthemum* spp. (chrysanthemum), for a period of 1 year after importation for an article of *Dianthus* spp. (carnation, sweet-william), and for a period of 2 years after importation for any other such articles.

(d) A completed postentry quarantine agreement shall accompany the application for a written permit for an article required to be grown under postentry quarantine conditions.[9]

(Approved by the Office of Management and Budget under control number 0579-0049)

(44 U.S.C. 35)

[45 FR 31585, May 13, 1980; 45 FR 35305, May 27, 1980, as amended at 45 FR 81531, Dec. 11, 1980; 48 FR 57466, Dec. 30, 1983]

§ 319.37-8 Growing media.

(a) Any restricted article at the time of importation or offer for importation into the United States shall be free of sand, soil, earth, and other growing media, except as provided in paragraph (b), (c), (d) or (e) of this section.

(b) A restricted article from Canada other than from Newfoundland or from the Land District of South Saanich on Vancouver Island in British Columbia may be imported established in any growing medium.

(c) A restricted article growing solely in agar or in other transparent or translucent tissue culture medium may be imported established in such growing media.

(d) Epiphytic plants (including orchid plants) established solely on tree fern slabs, coconut husks, or coconut fiber may be imported on such growing media.

(e) A restricted article of Polypodiophyta (=Filicales) (ferns), *Saintpaulia* spp. (African violet), *Gloxinia* spp. (gloxinia), *Begonia* spp. (begonia), and *Peperomia* spp. (peperomia) may be imported established in unused peat, sphagnum moss, or vermiculite growing media, or in synthetic growing media or synthetic horticultural foams, i.e., plastic particles, glass wool, organic and inorganic fibers, polyurethane, polystyrene, polyethylene, phenol formaldehyde, or ureaformaldehyde:

(1) If there is a written agreement between the Plant Protection and Quarantine Programs and the plant protection service of the country where the article is grown in which the plant protection service of the country where the article is grown agrees to implement a program in compliance with the provisions of this section;

(2) If there is a written agreement between the grower of the article and the plant protection service of the country in which the article is grown wherein the grower agrees to comply with the provisions of this section, wherein the grower agrees to allow an inspector access to the growing facility as necessary to monitor compliance with the provisions of this section, and wherein the grower agrees to allow representatives of the plant protection service of the country in which the article is grown access to the growing facility as necessary to make determinations concerning compliance with the provisions of this section;

(3) If:

(i) Grown throughout its growing period only in a greenhouse with insect-proof screening (a minimum of 16 mesh per inch) on all vents and with all entryways equipped with automatic closing doors;

(ii) Grown only in a greenhouse unit solely used for articles grown under all the criteria specified in this paragraph (e);

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[9] Postentry quarantine agreement forms are available without charge from the Permit Unit, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, Federal Building, Hyattsville, MD 20782, or local offices of the Plant Protection and Quarantine Programs which are listed in telephone directories.

(iii) Grown only on a raised bench supported by legs and raised at least 460 millimeters (approximately 18 inches) off the floor;

(iv) Grown only in unused peat, sphagnum moss, or vermiculite growing media; or grown only in synthetic growing media or synthetic horticultural foams, i.e., plastic particles, glass wool, organic and inorganic fibers, polyurethane, polystyrene, polyethylene, phenol formaldehyde, ureaformaldehyde;

(v) Watered only with clean rainwater that has been pasteurized, with clean well water, or with potable water;

(vi) Grown in a greenhouse free of sand, soil, or earth;

(vii) Grown only in a greenhouse where strict sanitary procedures are always practiced, i.e., cleaning and disinfection of floors, benches and tools, the application of measures to protect against any injurious plant diseases, injurious insect pests, and other plant pests; and

(viii) Stored only in areas found free of sand, soil, earth, injurious plant diseases, injurious insect pests, and other plant pests.

(4) If appropriate measures have been taken to assure that the article is to be stored, packaged, and shipped free of injurious plant diseases, injurious insect pests, and other plant pests;

(5) If accompanied by a phytosanitary certificate of inspection containing an accurate additional declaration from the plant protection service of the country in which grown that the article meets conditions of growing, storing, and shipping in compliance with 7 CFR 319.37-8(e); and

(6) If the accompanying phytosanitary certificate of inspection is endorsed by a Plant Protection and Quarantine Programs inspector in the country of origin or at the time of offer for importation, representing a finding based on monitoring inspections that the conditions listed above are being met.

(f) A restricted article of *Hyacinthus* spp. (nyacinth) may be imported established in unused peat, sphagnum moss, or vermiculite growing media, or in synthetic growing media or synthetic horticultural foams, i.e., plastic particles, glass wool, organic and inorganic fibers, polyurethane, polystyrene, polyethylene, phenol formaldehyde, or ureaformaldehyde:

(1) If there is a written agreement between Plant Protection and Quarantine and the plant protection service of the country where the article is grown in which the plant protection service of the country where the article is grown agrees to implement a program in compliance with the provisions of this section;

(2) If there is a written agreement between the grower of the article and the plant protection service of the country in which the article is grown wherein the grower agrees to comply with the provisions of this section, wherein the grower agrees to allow an inspector access to the growing facility as necessary to monitor compliance with the provisions of this section, and wherein the grower agrees to allow representatives of the plant protection service of the country in which the article is grown access to the growing facility as necessary to make determinations concerning compliance with the provisions of this section;

(3) If: (i) Inspected immediately prior to the growing period by the plant protection service of the country in which the article is to be grown and found to be free of injurious plant diseases, injurious insect pests, and other plant pests;

(ii) Grown throughout its growing period only in a coldroom (with temperatures not exceeding 9° C. (48° F.)) within an enclosed building;

(iii) Grown only in a coldroom unit solely used for articles grown under all the criteria specified in this paragraph (f);

(iv) Grown only in unused peat, sphagnum moss, or vermiculite growing media; or grown only in synthetic growing media or synthetic horticultural foams, i.e., plastic particles, glass wool, organic and inorganic fibers, polyurethane, polystyrene, polyethylene, phenol formaldehyde, ureaformaldehyde;

(v) Watered only with clean rainwater that has been pasteurized, with clean well water, or with potable water;

(vi) Grown in a coldroom free of sand, soil, or earth;

(vii) Grown only in a coldroom where strict sanitary procedures are always practiced, i.e., cleaning and disinfection of floors and tools and the application of measures to protect against any injurious plant diseases, injurious insect pests, and other plant pests; and

(viii) Stored only in areas found free of sand, soil, earth, injurious plant diseases, injurious insect pests, and other plant pests;

(4) If appropriate measures have been taken to assure that the article is to be stored, packaged, and shipped free of injurious plant diseases, injurious insect pests, and other plant pests;

(5) If accompanied by a phytosanitary certificate of inspection containing an accurate additional declaration from the plant protection service of the country in which grown that the article meets conditions of growing, storing, and shipping in compliance with 7 CFR 319.37-8(f); and

(6) If the accompanying phytosanitary certificate of inspection is endorsed by a Plant Protection and Quarantine inspector in the country of origin or at the time of offer for importation, representing a finding based on monitoring inspections that the conditions listed above are being met.

(Secs. 1, 5 and 9, 37 Stat. 315, 316, and 318, as amended; sec. 105, 71 Stat. 32 (7 U.S.C. 154, 159, 162, 150ee); 37 FR 28464, 28477, as amended; 38 FR 19141)

[45 FR 31585, May 13, 1980, and 47 FR 3087, Jan. 22, 1982]

§ 319.37-9 Approved packing material.

Any restricted article at the time of importation or offer for importation into the United States shall not be packed in a packing material unless such packing material is free from sand, soil, or earth (except for sand designated below); has not been used previously as packing material or otherwise; is not intermixed with other approved packing material; and is listed below:

Buckwheat hulls.

Coral sand from Bermuda, if the article packed in such sand is accompanied by a phytosanitary certificate of inspection containing an accurate additional declaration from the plant protection service of Bermuda that such sand was free from soil.

Excelsior.

Exfoliated vermiculite.

Ground cork.

Ground peat.

Ground rubber.

Paper.

Polymer stabilized cellulose.

Quarry gravel.

Sawdust.

Shavings—wood or cork.

Sphagnum moss.

Vegetable fiber when free of pulp, including coconut fiber and Osmunda fiber, but excluding sugarcane fiber and cotton fiber.

§ 319.37-10 Marking and identity.

(a) Any restricted article for importation other than by mail, at the time of importation or offer for importation into the United States shall plainly and correctly bear on the outer container (if in a container) or the restricted article (if not in a container) the following information:

(1) General nature and quantity of the contents,

(2) Country and locality where grown,

(3) Name and address of shipper, owner, or person shipping or forwarding the article,

(4) Name and address of consignee,

(5) Identifying shipper's mark and number, and

(6) Number of written permit authorizing the importation if one was issued.

(b) Any restricted article for importation by mail shall be plainly and correctly addressed and mailed to the Plant Protection and Quarantine Programs at a port of entry listed in § 319.37-14, shall be accompanied by a separate sheet of paper within the package plainly and correctly bearing the name, address, and telephone number of the intended recipient, and shall plainly and correctly bear on the outer container the following information:

(1) General nature and quantity of the contents,

(2) Country and locality where grown,

(3) Name and address of shipper, owner, or person shipping or forwarding the article, and

(4) Number of written permit authorizing the importation, if one was issued.

(c) Any restricted article for importation (by mail or otherwise), at the time of importation or offer for importation into the United States shall be accompanied by an invoice or packing list indicating the contents of the shipment.

(Approved by the Office of Management and Budget under control number 0579-0049)

(44 U.S.C. 35)

[45 FR 31585, May 13, 1980, as amended at 48 FR 57466, Dec. 30, 1983]

§ 319.37-11 Arrival notification.

Promptly upon arrival of any restricted article at a port of entry, the importer shall notify the Plant Protection and Quarantine Programs of the arrival by such means as a manifest, Customs entry document, commercial invoice, waybill, a broker's document, or a notice form provided for that purpose.

(Approved by the Office of Management and Budget under control number 0579-0049)

(44 U.S.C. 35)

[45 FR 31585, May 13, 1980, as amended at 48 FR 57466, Dec. 30, 1983]

§ 319.37-12 Prohibited articles accompanying restricted articles.

A restricted article for importation into the United States shall not be packed in the same container as an article prohibited importation into the United States by this part or Part 321.

§ 319.37-13 Treatment and costs and charges for inspection and treatment.

(a) The services of the inspector during regularly assigned hours of duty and at the usual places of duty shall be furnished without cost to the importer.[10] No charge will be made to the importer for Government owned or controlled special inspection facilities and equipment used in treatment, but the inspector may require the importer to furnish any special labor, chemicals, packing materials, or other supplies required in handling an importation under the regulations in this subpart. The Plant Protection and Quarantine Programs will not be responsible for any costs or charges, other than those indicated in this section.

(b) Any treatment performed in the United States on a restricted article shall be performed by an inspector or under an inspector's supervision at a government-operated special inspection facility, except that an importer may have such treatment performed at a nongovernmental facility if the treatment is performed at nongovernment expense under the supervision of an inspector and in accordance with any applicable treatment requirements of this subpart and in accordance with any treatment required by an inspector as an emergency measure in order to prevent the dissemination of any injurious plant disease, injurious insect pest, or other plant pest, new to or not theretofore known to be widely prevalent or distributed within and throughout the United States. However, treatment may be performed at a nongovernmental facility only in cases of unavailability of government facilities and only if, in the judgment of an inspector, such article can be transported to such nongovernmental facility without the risk of introduction into the United States of injurious plant diseases, injurious insect pests, or other plant pests.

§ 319.37-14 Ports of entry.

(a) Any restricted article required to be imported under a written permit pursuant to paragraphs (a) (1) through (6) of § 319.37-3 of this subpart, shall be imported or offered for importation only at a port of entry designated by an asterisk in paragraph (b) of this section; any other restricted article shall be imported or offered for importation at any port of entry listed in paragraph (b) of this section.

(b) Any restricted article from Canada not required to be imported under a written permit pursuant to paragraphs (a) (1) through (6) of § 319.37-3 of this subpart may be imported at any port of entry listed in this paragraph, or at any Customs designated port of entry on the United States-Canada border (Customs designated ports of entry are listed in 19 CFR Part 101).

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[10] Provisions relating to costs for other services of an inspector are contained in Part 354.

LIST OF PORTS OF ENTRY

Ports with special inspection and treatment facilities (plant inspection stations) are indicated by an asterisk (*).

ALABAMA

Mobile

Federal Building, Room 147, 113 St. Joseph Street, P.O. Box 1413, Mobile, AL 36601.

ALASKA

Anchorage

Annex P.O. Box 6191, International Airport, Anchorage, AK 99502.

ARIZONA

**Nogales*

Federal Inspection Station, Nogales, AZ 85621.

Phoenix

Sky Harbor Airport, 3300 Sky Harbor Boulevard, Phoenix, AZ 85034.

San Luis

U.S. Border Station, P.O. Box 37, San Luis, AZ 85349.

Tucson

Tucson International Airport, Tucson, AZ 85706.

CALIFORNIA

Calexico

Federal Inspection Building, Room 223, 200 First Street, P.O. Box 686, Calexico, CA 92231.

**Los Angeles*

9650 LaCienega Boulevard, Building D North, Inglewood, CA 90301.

(Airport)

World Way Center Post Office, International Arrivals Area, Satellite 2, P.O. Box 90429, Los Angeles International Airport, Los Angeles, CA 90009.

**San Diego*

U.S. Border Station, P.O. Box 43L, San Ysidro, CA 92073.

**San Francisco*

Plant Inspection Station, San Francisco International Airport, San Francisco, CA 94128.

San Francisco International Airport, P.O. Box 8026, Airport Station, San Francisco, CA 94128.

101 Agriculture Building, Embarcadero at Mission Street, P.O. Box 7673, San Francisco, CA 94120.

**San Pedro*

(See Los Angeles)

Travis AFB

P.O. Box 1448, Travis Air Force Base, Fairfield, CA 94535.

COLORADO

Denver

Suite 102, 7100 West 44th Avenue, Wheat Ridge, CO 80033.

CONNECTICUT

Wallingford

Federal Building, Room 205, P.O. Box 631, Wallingford, CT 06492.

DELAWARE

Dover AFB

Building 500 (USDA), Dover Air Force Base, DE 19901.

Wilmington

Federal Building, Room 1218A, 844 King Street, Box 03, Wilmington, DE 19801.

DISTRICT OF COLUMBIA

Dulles International Airport

(See Virginia)

FLORIDA

Jacksonville

Federal Building, Room 521, 400 West Bay Street, P.O. Box 35003, Jacksonville, FL 32202.

Key West

Federal Building, Room 226, 301 Simonton Street, P.O. Box 1486, Key West, FL 33040.

**Miami*

Miami Inspection Station, 3500 NW. 62nd Avenue, P.O. Box 59-2136, Miami, FL 33159.

FAA & NWS Building, Box 59-2647 AMF, Miami, FL 33159.

Pensacola

Federal Building, Room 105, 100 North Palafax Street, P.O. Box 12561, Pensacola, FL 32573.

Cape Canaveral

120 George King Boulevard, P.O. Box 158, Cape Canaveral, FL 32920.

Port Everglades

Amman Building, Room 305, 611 Eisenhower Boulevard, P.O. Box 13033, Fort Lauderdale, FL 33316.

Tampa

700 Twiggs Street, Room 504, P.O. Box 266, Tampa, FL 33601.

West Palm Beach

158 Port Road, P.O. Box 10611, Riviera Beach, FL 33404.

(Airport)

Palm Beach International Airport, Port of Entry Building, West Palm Beach, FL 33406.

GEORGIA

Atlanta

Hapeville Branch Post Office, Basement, 650 Central Avenue, P.O. Box 82369, Hapeville, GA 30354.

Savannah

U.S. Court House & Federal Building, Room B-9, 125-126 Bull Street, P.O. Box 9268, Savannah, GA 31402.

GUAM

Agana

P.O. Box 2950, Agana, GU 96910.

HAWAII

Hilo

General Lyman Field, Hilo, HI 96720.

**Honolulu (Airport)*

Honolulu International Airport, International Arrivals Building, Ewa end, Ground Level, P.O. Box 29757, Honolulu, HI 96820.

Wailuku, Maui

Federal Post Office Building, Room 211, Wailuku, HI 96793.

ILLINOIS

Chicago

U.S. Custom House, Room 800, 610 South Canal Street, Chicago, IL 60607.

(Airport)

O'Hare International Arrivals Building, P.O. Box 66192, Chicago, IL 60666.

LOUISIANA

Baton Rouge

750 Florida Boulevard, Room 321, Federal Building, P.O. Box 2447, Baton Rouge, LA 70821.

**New Orleans*

New Orleans International Airport, P.O. Box 20037, Airport Mailing Facility, New Orleans, LA 70140.

F. Edward Hébert Building, P.O. Box 2220, New Orleans, LA 70176.

MAINE

Bangor (Airport)

International Arrivals Building, Bangor International Airport, Bangor, ME 04401.

Portland

U.S. Courthouse, 156 Federal Street, Room 309, Portland, ME 04101.

MARYLAND

Baltimore

Appraisers Stores Building, Room 506, 103 South Gay Street, Baltimore, MD 21202.

(Airport)

Foreign Arrivals Building, Baltimore Washington International Airport, Baltimore, MD 21240.

Beltsville

Plant Germplasm Quarantine Center (for USDA shipments only), Building 320, Beltsville, Agricultural Research Center East, Beltsville, MD 20705.

MASSACHUSETTS

Boston

Room 4, U.S. Custom House, Boston, MA 02109.

(Airport)

Logan International Airport, East Boston, MA 02128.

MICHIGAN

Detroit

International Terminal, Room 228, Metropolitan Airport, Detroit, MI 48242.

MINNESOTA

Duluth

Board of Trade Building, Room 420, 301 West First Street, Duluth, MN 55802.

St. Paul

Minneapolis-St. Paul International Airport, International Charter Terminal, P.O. Box 1690, St. Paul, MN 55111.

MISSOURI

Kansas City (Airport)

Kansas City International Airport, P.O. Box 20085, Kansas City, MO 64195.

St. Louis International Airport

P.O. Box 858, St. Charles, MO 63301.

NEW JERSEY

**Hoboken*

209 River Street, Hoboken, NJ 07030.

McGuire AFB

Building 1706, Passenger Terminal, Customs Area, P.O. Box 16073, McGuire Air Force Base, NJ 08641.

NEW YORK

Albany

80 Wolf Road, Suite 503, Albany, NY 12205.

Buffalo

Federal Building, Room 1113, 111 West Huron Street, Buffalo, NY 14202.

New York

26 Federal Plaza, Room 1747, New York, NY 10007.

**Jamaica*

John F. Kennedy International Airport, Plant Inspection Station, Cargo Building 80, Jamaica, NY 11430.

International Arrivals Building, Room 2315,
John F. Kennedy International Airport.

Rouses Point

St. John's Highway Border Station, Room 118, Route 9B, P.O. Box 278, Rouses Point, NY 12979.

NORTH CAROLINA

Morehead City

Room 216, 113 Arendell, P.O. Box 272, Morehead City, NC 28557.

Wilmington

Rural Route 6, Box 53D, Wilmington, NC 28405.

OHIO

Cleveland

Federal Building, Room 1749, 1240 East 9th Street, Cleveland, OH 44199.

OREGON

Astoria

Port Docks, P.O. Box 354, Astoria, OR 97103.

Coos Bay

U.S. Postal Services Building, 235 West Anderson Street, P.O. Box 454, Coos Bay, OR 97420.

Portland

Federal Building, Room 657, 511 NW. Broadway, Portland, OR 97209.

PENNSYLVANIA

Philadelphia

Custom House, Room 1004, 2nd and Chestnut Streets, Philadelphia, PA 19106.

PUERTO RICO

Mayaguez

P.O. Box 3269, Marina Station, Mayaguez, PR 00708.

Ponce

P.O. Box 68, Ponce Playa Station, Ponce, PR 00731.

Hato Rey

Federal Office Building & U.S. Court House, Room 206, Hato Rey, PR 00918.

Roosevelt Roads

Roosevelt Roads Naval Station, P.O. Box 3008, Air Operations, FPO Miami, FL 34051.

**San Juan*

Isla Verde International Airport, Foreign Arrivals Wing, San Juan, PR 00904.

RHODE ISLAND

Warwick

48 Quaker Lane, West Warwick, RI 02893.

SOUTH CAROLINA

Charleston

Room 513 Federal Building, P.O. Box 941, Charleston, SC 29402.

TENNESSEE

Memphis

Room 801 Mid Memphis Tower, 1407 Union Avenue, Memphis, TN 38104.

TEXAS

**Brownsville*

Border Services Building, Room 224 (Gateway Bridge), East Elizabeth and International Boulevard, P.O. Box 306, Brownsville, TX 78520.

Corpus Christi

807 Petroleum Tower, 811 Carancahua Street, P.O. Box 245, Corpus Christi, TX 78403.

Dallas-Fort Worth (Airport)

Dallas-Fort Worth Airport, P.O. Box 61063, Dallas-Ft. Worth Airport, TX 75261.

Del Rio

U.S. Border Inspection Station, Room 135, International Bridge, P.O. Box 1227, Del Rio, TX 78840.

Eagle Pass

U.S. Border Station, 160 Garrison Street, P.O. Box P, Eagle Pass, TX 78852.

**El Paso*

Cordova Border Station, Room 172-A, 3600 East Paisano, El Paso, TX 79905.

Galveston

Room 402, U.S. Post Office Building, 601 Rosenberg Street, P.O. Box 266, Galveston, TX 77553.

Hidalgo

U.S. Border Station, Bridge Street, P.O. Drawer R, Hidalgo, TX 78557.

Houston

U.S. Appraisers Stores Building, Room 210 7300 Wingate Street, Houston, TX 77011.

**Laredo*

La Posada Motel, Rooms L8-13, 1000 Zaragoza Street, P.O. Box 277, Laredo, TX 78040.

Juarez-Lincoln International Bridge, 101 Santa Ursela, Laredo, TX 78040.

U.S. International Bridge No. 1, 100 Convent Avenue, Laredo, TX 78040.

Port Arthur

Federal Building, Room 201, Fifth Street & Austin Avenue, P.O. Box 1227, Port Arthur, TX 77640.

Presidio

U.S. Border Station, International Bridge, P.O. Box 1001, Presidio, TX 79845.

Progreso

Custom House Building, Progreso International Bridge, Progreso, TX 78579.

Roma

International Bridge, P.O. Box 185, Roma, TX 78584.

San Antonio

International Satellite, Room 15-S, 9700 Airport Boulevard, San Antonio, TX 78216.

VIRGIN ISLANDS OF THE UNITED STATES

St. Thomas

Room 227, Federal Building, P.O. Box 8119, St. Thomas, Virgin Islands of the U.S. 00801.

(Airport)

Harry S. Truman Airport, Main Terminal Building, St. Thomas, Virgin Islands of the U.S. 00801.

St. Croix

Drawer 1548, Kingshill, St. Croix, Virgin Islands of the U.S. 00850.

VIRGINIA

Chantilly (Airport)

Dulles International Airport, International Arrivals Area, P.O. Box 17134, Washington, DC 20041.

Newport News

P.O. Box 942, Newport News, VA 23607.

Norfolk

Federal Building, Room 311, 200 Granby Mall, Norfolk, VA 23510.

WASHINGTON

Blaine

Custom House, Room 216, P.O. Drawer C, Blaine, WA 98230.

McChord AFB

MAC Terminal, P.O. Box 4116, McChord Air Force Base, Tacoma, WA 98438.

**Seattle*

Federal Office Building, Room 9014, 909 First Avenue, Seattle, WA 98174.

(Airport)

Seattle-Tacoma International Airport, Seattle, WA 98158.

WISCONSIN

Milwaukee

International Arrivals Terminal, General Mitchell Field, 5300 South Howell Avenue, Milwaukee, WI 53207.

Subpart—Indian Corn or Maize, Broomcorn, and Related Plants

QUARANTINE

§ 319.41 Notice of quarantine.

(a) The fact has been determined by the Secretary of Agriculture, and notice given, that dangerous plant pests, including the so-called European corn borer (Ostrinia nubilalis Hubn.), and also other dangerous insects, as well as plant diseases not heretofore widely prevalent or distributed within and throughout the United States, exist, as to one or more of such pests, in Europe, Asia, Africa, Dominion of Canada, Mexico, Central and South America, and other foreign countries and localities, and may be introduced into this country through importations of the stalks or other parts of Indian corn or maize, broomcorn, and related plants.

(b) The Secretary of Agriculture, under the authority conferred by the act of Congress approved August 20, 1912, known as the Plant Quarantine Act (37 Stat. 315; 7 U.S.C. 151-167), determined that it was necessary, in order to prevent the further introduction of the dangerous plant pests mentioned above, to forbid, except as provided in the rules and regulations supplemental hereto, the importation into the United States from all foreign countries and localities of the stalk and all other parts, whether used for packing or other purposes, in the raw or unmanufactured state, of Indian corn or maize (Zea mays L.), broomcorn (Andropogon sorghum var. technicus), sweet sorghums (Andropogon sorghum), grain sorghums (Andropogon sorghum), Sudan grass (Andropogon sorghum sudanensis), Johnson grass (Andropogon halepensis), sugarcane (Saccharum officinarum), including Japanese varieties, pearl millet (Pennisetum glaucum), napier grass (Pennisetum purpureum), teosinte (Euchlaena luxurians), and jobs-tears (Coix lachryma-Jobi).

(c) Hereafter, and until further notice, by virtue of said act of Congress approved August 20, 1912, the importation into the United States of the stalk and all other parts of the plants enumerated above from all foreign countries and localities except as provided in the rules and regulations supplemental hereto, is prohibited: *Provided,* That whenever the Deputy Administrator of the Plant Protection and Quarantine Programs shall find that existing conditions as to pest risk involved in the importation of the articles to which the regulations supplemental hereto apply, make it safe to modify, by making less stringent, the restrictions contained in any of such regulations, he shall publish such findings in administrative instructions, specifying the manner in which the regulations shall be made less stringent, whereupon such modification shall become effective; or he may, when the public interests will permit, with respect to the importation of such articles into Guam, upon request in specific cases, authorize such importation under conditions, specified in the permit to carry out the purposes of this subpart, that are less stringent than those contained in the regulations.

(d) As used in this subpart, unless the context otherwise requires, the term "United States" means the States, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands of the United States.

§ 319.41a Administrative instructions relating to entry into Guam of broomcorn, brooms, and similar articles.

(a) Broomcorn for manufacturing purposes, and brooms and similar articles made of broomcorn may be imported into Guam without further permit, other than the authorization contained in this section, and without other restriction under this subpart. Notice of arrival for such importations is not necessary inasmuch as there is available to the inspector the essential information normally supplied by the importer at time of importation. Inspection of such importations may be made under the general authority of § 330.105(a) of this chapter. If an importation is found infected, infested, or contaminated with any plant pest and is not subject to disposal under this Part 319, disposition may be made in accordance with § 330.106 of this chapter.

(b) Shelled corn and seeds of other plants listed in § 319.41, and mature corn on the cob, may be imported into Guam without further permit, other than the authorization contained in this section and without other restriction under this subpart, but such importations are subject to the requirements of § 319.37-4(a).

(c) Green corn on the cob may be imported into Guam without restriction under this subpart, but such importations are subject to the requirements of § 319.56-2.

§ 319.41b Administrative instructions prescribing conditions for entry of broomstraw without treatment.

Broomstraw, sometimes referred to as "combed stalkless", when consisting of individual straws entirely free from stems, stalks, stubs of stalks, and leaves, may be imported from all countries without seasonal limitation through ports of entry designated in the permit, provided it is bundled and baled to prevent breakage and scattering and to facilitate inspection, in the following manner:

(a) The broomstraw shall be assembled into bundles with the base of the individual straws at the same end, no alternating of layers being permitted.

(b) Each bundle shall be securely tied to prevent breakage.

(c) Individual bundles shall be compacted, grouped into bales, and so arranged that the butt of each bundle is exposed on the outside of the bale.

(d) Each bale shall be securely bound to prevent shifting or loosening of the bundles in transit.

(e) Broomstraw found upon inspection at the port of entry to contain stems, stalks, stubs of stalks, or leaves shall be sterilized under the supervision of an inspector. Broomstraw contaminated in the aforesaid manner, from countries other than those on the North or South American Continents or the West Indies, shall be considered as broomcorn and shall be subject to compliance with § 319.41-3(b).

[25 FR 12809, Dec. 14, 1960]

RULES AND REGULATIONS

§ 319.41-1 Plant products permitted entry.[1]

Except as restricted from certain countries and localities by special quarantines and other orders now in force,[2] and by such as may hereafter be promulgated, the following articles may be imported:

(a) Subject only to the requirements of paragraphs (a), (b), and (c) of § 319.41-5:

(1) Green corn on the cob, in small lots for local use only, from adjacent areas of Canada.

(2) Articles made of the stalks, leaves, or cobs of corn, when prepared, manufactured, or processed in such manner that in the judgment of the inspector no pest risk is involved in their entry.

(3) Corn silk.

(b) Upon compliance with the regulations in this subpart:

(1) Broomcorn for manufacturing purposes, brooms or similar articles made of broomcorn, clean shelled corn, and clean seed of the other plants covered by § 319.41.

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[1] Except as provided in § 319.41-6 the regulations in this subpart do not authorize importations through the mails.

[2] The entry of the following plants and plant products is prohibited or restricted by specific quarantines and other restrictive orders now in force.

(a) Living canes of sugarcane, or cuttings or parts thereof, from all foreign countries. (§ 319.15.)

(b) Seed and all other portions in the raw or unmanufactured state of Indian corn or maize (Zea mays L.), and the closely related plants, including all species of Teosinte (Euchlaena), Jobs-tears (Coix), Polytoca, Chionachne, Sclerachne, and Trilobachne, from Australia, Burma, Cambodia, China, Formosa, India, Indonesia, Japan and adjacent islands, Laos, Malaya, Manchuria, New Guinea, New Zealand, North Viet-Nam, Oceania, Pakistan, Philippines, Ryukyu Islands, Thailand, and Viet-Nam. (§ 319.24.)

(2) Corn on the cob, green or mature, from the provinces of Canada west of and including Manitoba,[3] and from Mexico, Central America, South America, the West Indies, the Bahamas, and Bermuda.

§ 319.41-2 Application for permits.

(a) Persons contemplating the importation of any of the articles specified in § 319.41-1(b), shall first make application to the Plant Protection and Quarantine Programs for a permit, stating in the application the name and address of the exporter, the country and locality where grown, the port of arrival, and the name and address of the importer in the United States to whom the permit should be sent. Unless otherwise stated in the permit, all permits will be valid from date of issuance until revoked.

(b) Applications for permits should be made in advance of the proposed shipments; but if, through no fault of the importer, a shipment should arrive before a permit is received, the importation will be held in customs custody at the risk and expense of the importer for a period not exceeding 20 days pending the receipt of the permit.

(c) Applications may be made by telegraph, in which case the information required above must be given.

(Approved by the Office of Management and Budget under control number 0579-0049)

(44 U.S.C. 35)

[24 FR 10788, Dec. 29, 1959, as amended at 48 FR 57466, Dec. 30, 1983]

§ 319.41-3 Issuance of permits.

(a) On approval by the Deputy Administrator of the Plant Protection and Quarantine Programs of the application mentioned in § 319.41-2, a permit will be issued.

(b) For broomcorn and brooms and similar articles made of broomcorn, permits will be issued by the Deputy Administrator of the Plant Protection and Quarantine Programs for such ports as may be designated therein, except that permits will be issued for the entry of broomcorn originating in countries other than those in the North or South American Continents or the West Indies only through the ports of Baltimore, Boston, New York, and Norfolk, or through other northeastern ports which may from time to time be designated in the permit, and at which facilities for treatment of infested material may be available, such entry to be limited to those shipments accompanied by on-board bills of lading dated within the period September 15 through February 15 of the succeeding year, both dates inclusive. Permits will not be issued for the entry of broomcorn from any source through ports on the Pacific Coast.

(c) For shelled corn and for seeds of other plants listed in § 319.41, and for corn on the cob, green or mature, from the land areas designated in § 319.41(b)(2), permits will be issued for ports where the Plant Protection and Quarantine Programs maintains an inspection service and for such other ports as may be designated in the permit.

(d) Pending development of adequate treating facilities in Guam, any of the articles specified in § 319.41-1 that are subject to treatment as a condition of entry therein must first be entered and treated in accordance with the requirements of this subpart at a United States port of arrival where such treating facilities are available.

[24 FR 10788, Dec. 29, 1959, as amended at 33 FR 11811, Aug. 21, 1968; 36 FR 24917, Dec. 24, 1971]

§ 319.41-4 Notice of arrival by permittee.

Immediately upon arrival of the importation at the port of arrival the permittee shall submit, in duplicate, notice to the Plant Protection and Quarantine Programs, through the United States Collector of Customs, or, in the case of Guam, through the Customs officer of the Government of Guam, on forms provided for that purpose, stating the number of the permit, the date of entry, the name of ship or vessel, railroad, or other carrier, the country and locality where the articles were grown, the name of the foreign shipper, the quantity or number of bales or containers, and the marks and numbers on the bales or containers, the port of arrival, and the name of the importer or broker at the port of arrival.

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[3] A quarantine is maintained by Canada to prevent spread of the European corn borer from the infested eastern areas to the still uninfested Provinces west of Ontario.

(Approved by the Office of Management and Budget under control number 0579-0049)

(44 U.S.C. 35)

[24 FR 10788, Dec. 29, 1959, as amended at 48 FR 57466, Dec. 30, 1983]

§ 319.41-5 Condition of entry.

(a) The entry of the articles covered by § 319.41-1 is conditioned on their freedom from the European corn borer and other injurious insects and plant diseases, and upon their freedom from contamination with plant materials prohibited entry under other quarantines. All shipments of these articles shall be subject to inspection at the port of arrival by an inspector of the Plant Protection and Quarantine Programs, in order to determine their freedom from such insects and diseases and from contaminating materials, and to such sterilization, grinding, or other necessary treatment as the inspector may prescribe. Should an importation be found on inspection to be so infested or infected or contaminated that, in the judgment of the inspector, it can not be made safe by sterilization or other treatment, the entire shipment may be refused entry.

(b) When entry under sterilization or other treatment is permitted, the importation will be released to the permittee for such treatment, upon the filing with the appropriate customs official of a bond in the amount of $5,000, or in an amount equal to the invoice value, if such value be less than $5,000, with approved sureties, and conditioned that the importation shall be sterilized or otherwise treated under the supervision of the inspector; that no bale or container shall be broken, opened, or removed from the port of arrival unless and until a written notice is given to said customs official by an inspector that the importation has been properly sterilized or treated; and that the importation shall be redelivered to said customs official within 30 days after its arrival.

(c) Should a shipment requiring sterilization or other treatment under the provisions of the regulation in this subpart arrive at a port where facilities for such sterilization or other treatment are not maintained, such shipment shall either be promptly shipped under safeguards and by routing prescribed by the inspector to an approved port where facilities for sterilization or other treatment are available, or it shall be refused entry.

(d) Other conditions of entry as applying to the certain classes of articles enumerated in § 319.41-1 are:

(1) *Broomcorn.* All importations of broomcorn shall be so baled as to prevent breakage and scattering in connection with the necessary handling and sterilization; if in the judgment of the inspector they are not so baled, entry may be refused. All importations of broomcorn shall be subject to such sterilization or other treatment as the inspector may require.

(2) *Articles made of broomcorn.* Brooms or similar articles made of broomcorn shall be subject to sterilization unless their manufacture involves the substantial elimination of stems or such treatment of the included stems as in the judgment of the inspector shall preclude such articles from being the means of carriage of the European corn borer and of other injurious insects and plant diseases.

(3) *Shelled corn and other seeds.* If shipments of shelled corn and seeds of the other plants from countries other than those named in § 319.41-1 (b)(2) are found upon inspection at the port of arrival to be appreciably fouled with cobs or other portions of the plants the inspector may require sterilization or other treatment or may refuse entry.

§ 319.41-5a Administrative instructions; method used for the disinfection of imported broomcorn and broomcorn brooms.

Broomcorn and articles made of broomcorn which are required to be treated, under the provisions of § 319.41-5, will be treated by one of the following methods:

(a) *Vacuum fumigation.* (1) The temperature of the stalks and of the fumigation chamber during the fumigation shall be not less than 60° F.

(2) The dosage for the fumigation shall be 3 pounds of liquid hydrocyanic acid or its equivalent per 1,000 cubic feet of space.

(3) The air pressure in the fumigation chamber shall be reduced to the equivalent of 2 inches of mercury (a 28-inch vacuum at sea level), after which the hydrocyanic acid shall be introduced and the low pressure held for the duration of the fumigation.

(4) The exposure shall be not less than 3 hours.

(b) *Steam sterilization.* (1) The air pressure in the treating chamber shall be reduced to the equivalent of 5 inches of mercury (a 25-inch vacuum at sea level).

(2) Steam shall then be introduced until a positive pressure of 10 pounds is obtained.

(3) The exposure to the 10-pound positive pressure of steam shall continue for a period sufficient to assure a constant temperature in all parts of the treating chamber, after which the steam may be shut off and the treating chamber exhausted of the uncondensed steam.

(c) *Other treatments.* Any other treatments approved by the Deputy Administrator of the Plant Protection and Quarantine Programs in specific cases.

[24 FR 10788, Dec. 29, 1959, as amended at 34 FR 15559, Oct. 7, 1969; 36 FR 24917, Dec. 24, 1971]

§ 319.41-6 Importations by mail.

In addition to entries by freight or express provided for in § 319.41-5, importations are permitted by mail of (a) mature corn on the cob from the countries specified in § 319.41-1(b)(2), (b) clean shelled corn and clean seed of the other plants covered by § 319.41: *Provided,* That a permit has been issued for the importation: *Provided further,* That each shipment is accompanied from the foreign mailing point by a special mailing tag, which will direct the package to a Plant Protection and Quarantine Programs inspection station for inspection in accordance with § 319.41-5 before release to the mails for delivery to the importer. These special mailing tags will be furnished on request to the importer for transmission to his foreign shipper.

(Approved by the Office of Management and Budget under control number 0579-0049)

(44 U.S.C. 35)

[24 FR 10788, Dec. 29, 1959, as amended at 48 FR 57466, Dec. 30, 1983]

Subpart—Rice

QUARANTINE

§ 319.55 Notice of quarantine.

(a) The fact has been determined by the Secretary of Agriculture, and notice is hereby given, (1) that injurious fungous diseases of rice, including downy, mildew (Sclerospora macrospora), leaf smut (Entyloma oryzae), blight (Oospora oryzetorum), and glume blotch (Melanomma glumarum), as well as dangerous insect pests, new to and not heretofore widely prevalent or distributed within and throughout the United States, exist, as to one or more of such diseases and pests, in Europe, Asia, Africa, Central America, South America, and other foreign countries and localities, and may be introduced into this country through importations of seed or paddy rice, rice straw, and rice hulls, and (2) that the unrestricted importation of seed or paddy rice from the Republic of Mexico and of rice straw and rice hulls from all foreign countries and localities may result in the entry into the United States of the injurious plant diseases heretofore enumerated, as well as insect pests.

(b) Under authority conferred by the act of Congress approved August 20, 1912, known as "The Plant Quarantine Act" (37 Stat. 315; 7 U.S.C. 151-167), as amended, the Secretary of Agriculture does hereby declare that it is necessary, in order to prevent the introduction into the United States of the insect pests and plant diseases referred to, to forbid the importation into the United States of seed or paddy rice from all foreign countries and localities except the Republic of Mexico, and to restrict the importation of seed or paddy rice from the Republic of Mexico, and of rice straw and rice hulls from all foreign countries and localities.

(c) On and after November 23, 1933, by virtue of the said act of Congress, the importation of seed or paddy rice into the United States from all foreign countries and localities except the Republic of Mexico is prohibited, and the importation of seed or paddy rice from the Republic of Mexico and of rice straw and rice hulls from all foreign countries and localities is forbidden except in accordance with the rules and regulations supplemental hereto: *Provided*, That whenever the Deputy Administrator of the Plant Protection and Quarantine Programs shall find that existing conditions as to pest risk involved in the importation of the articles to which the regulations supplemental hereto apply, make it safe to modify, by making less stringent, the restrictions contained in any of such regulations, he shall publish such findings in administrative instructions, specifying the manner in which the regulations shall be made less stringent, whereupon such modification shall become effective; or he may, when the public interests will permit, with respect to the importation of such articles into Guam, upon request in specific cases, authorize such importation under conditions, specified in the permit to carry out the purposes of this subpart, that are less stringent than those contained in the regulations.

(d) As used in this subpart, unless the context otherwise requires, the term "United States" means the States, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands of the United States.

§ 319.55a Administrative instructions relating to entry of rice straw and rice hulls into Guam.

Rice straw and rice hulls may be imported into Guam without further permit, other than the authorization contained in this paragraph. The port of entry shall be Agana or such other port as may be satisfactory to the inspector. Such importations may be made without the submission of a notice of arrival inasmuch as there is available to the inspector the essential information normally supplied by an importer at the time of importation. The requirements of §§ 319.55-6 and 319.55-7 shall not apply. Inspections of such importations may be made under the general authority of § 330.105(a) of this chapter. If an importation is found infected, infested, or contaminated by any plant pest and is not subject to disposal under this part, disposition may be made in accordance with § 330.106 of this chapter.

Rules and Regulations

§ 319.55-1 Definitions.

(a) *Seed or paddy rice.* Unhusked rice in the form commonly used for seed purposes; the regulations in this subpart do not apply to husked or polished rice imported for food purposes.

(b) *Port of first arrival.* The first port within the United States where the shipment is (1) offered for consumption entry or (2) offered for entry for immediate transportation in bond.

(c) *Inspector.* An Inspector of the Plant Protection and Quarantine Programs of the United States Department of Agriculture.

§ 319.55-2 Application for permit.

(a) Application for a permit to import seed or paddy rice from Mexico or rice straw or rice hulls from any country, may be made to the Plant Protection and Quarantine Programs, indicating in the application the locality where the desired material has been grown, the port of first arrival, and the name and address of the importer in the United States to whom the permit should be sent, if other than the applicant.

(b) Applications for permits should be made in advance of the proposed shipments; but if, through no fault of the importer, a shipment should arrive before a permit is received, the importation will be held in customs custody at the port of first arrival, at the risk and expense of the importer, for a period not exceeding 20 days, pending the receipt of the permit.

(c) Application may be mader by telegraph, in which case the information required above must be furnished.

(Approved by the Office of Management and Budget under control number 0579-0049)

(44 U.S.C. 35)

[24 FR 10788, Dec. 29, 1959, as amended at 48 FR 57466, Dec. 30, 1983]

§ 319.55-3 Ports of entry.

(a) For importations of seed or paddy rice from the Republic of Mexico, permits will be issued for entry through Mexican border ports and such other ports as may later be approved by the Plant Protection and Quarantine Programs.

(b) For importations of rice straw and rice hulls from all foreign countries, permits will be issued for entry at New York and Boston and at such other ports as may later be approved by the Plant Protection and Quarantine Programs.

(c) Pending development of adequate treating facilities in Guam, seed or paddy rice, rice straw, and rice hulls that are subject to treatment as a condition of entry therein must first be entered and treated in accordance with the requirements of this subpart at a United States port of arrival where such treating facilities are available.

(d) Should a shipment requiring treatment arrive at a port where facilities for such treatment are not maintained, such shipment shall either be promptly shipped under safeguards and by routing prescribed by the inspector to an approved port where facilities for treatment are available, or it shall be refused entry.

§ 319.55-4 Issuance of permits.

Upon receipt of an application and upon approval by an inspector a permit will be issued specifying the conditions of entry and the port of entry to carry out the purposes of this subpart, and a copy will be supplied to the importer.

§ 319.55-5 Notice of arrival by permittee.

Immediately upon the arrival of a shipment at the port of first arrival, the permittee or his agent shall submit a notice, in duplicate, to the Plant Protection and Quarantine Programs, through the United States Collector of Customs, or, in the case of Guam, through the Customs officer of the Government of Guam, on a form provided for that purpose, stating the number of the permit, the quantity in the shipment, the locality where grown, the date of arrival, and, if by rail, the name of the railroad company, the car numbers, and the terminal where the shipment is to be unloaded, or, if by vessel, the name of the vessel and the designation of the dock where the shipment is to be landed.

(Approved by the Office of Management and Budget under control number 0579-0049)

(44 U.S.C. 35)

[24 FR 10788, Dec. 29, 1959, as amended at 48 FR 57466, Dec. 30, 1983]

§ 319.55-6 Inspection and disinfection at port of arrival.

(a) *Paddy rice.* All importations of seed or paddy rice from Mexico shall be subject, as a condition of entry, to such inspection or disinfection, or both, at the port of arrival, as shall be required by the inspector, and to the delivery to the collector of customs by the inspector of a written notice that the seed or paddy rice has been inspected and found to be apparently free from plant diseases and insect pests or that the required treatment has been given. Should any shipment of such seed or paddy rice be found to be so infested with insect pests or infected with plant diseases that, in the judgment of the inspector, it cannot be cleaned by disinfection or other treatment, the entire shipment may be refused entry.

(b) *Rice straw and rice hulls.* (1) As a condition of entry, rice straw and rice hulls shall be subject to inspection and to treatment at the port of arrival, under the supervision of the inspector, by methods and at plants approved by the Plant Protection and Quarantine Programs and, as a further condition of entry, in order to permit effective treatment, the contents of packages or bales shall not be compressed to a density of more than 30 pounds per cubic foot. Rice straw and rice hulls will be admitted only at ports where adequate facilities are available for such treatment. The required treatment must be given within 20 days after arrival, but if any shipment of rice straw or rice hulls shall be found upon arrival to be dangerously infested or infected the inspector may direct immediate treatment under adequate safeguards; and, if the treatment and safeguards are not put into effect as directed, the shipment shall be removed from the country immediately or destroyed.

(2) Unless, within 20 days after the date of arrival of a shipment at the port at which the formal entry was filed, the importation has received the required treatment, due notice of which shall be given to the collector of customs by the inspector, demand will be made by the collector for redelivery of the shipment into customs custody under the terms of the entry bond, and, if such redelivery is not made, the shipment shall be removed from the country or destroyed.

(c) *General.* (1) All charges for storage, cartage, and labor incident to inspection and disinfection, other than the services of the inspector, shall be paid by the importer.

(2) All shipments shall be so baled, bagged, or wrapped as to prevent scattering or wastage. If, in the judgment of the inspector, a shipment is not so bagged, baled, or wrapped, it shall be reconditioned at the expense of the permittee or entry may be refused.

§ 319.55-7 Importations by mail.

Sections 319.55-2 to 319.55-6, inclusive, provide for importations otherwise than through the mails. Importations of seed or paddy rice from Mexico, and of rice straw and rice hulls from all foreign countries and localities, may be made by mail, *Provided* (a) That a permit has been issued for the importation in accordance with §§ 319.55-2, 319.55-4, and (b) That each shipment is accompanied from the foreign mailing point by a special mailing tag directing the package to a Plant Protection and Quarantine Programs inspection station for inspection and, if necessary, for treatment, before being released to the mails for delivery to the importer, unless entry is refused in accordance with the provisions of § 319.55-6. The special mailing tags will be furnished on request to the importer for transmission in advance to his foreign shipper.

(Approved by the Office of Management and Budget under control number 0579-0049)

(44 U.S.C. 35)

[24 FR 10788, Dec. 29, 1959, as amended at 48 FR 57466, Dec. 30, 1983]

Subpart—Fruits and Vegetables

QUARANTINE

§ 319.56 Notice of quarantine.

(a) The fact has been determined by the Secretary of Agriculture, and notice is hereby given: (1) That there exist in Europe, Asia, Africa, Mexico, Central America, and South America, and other foreign countries and localities, certain injurious insects, including fruit and melon flies (Tephritidae), new to and not heretofore widely distributed within and throughout the United States, which affect and may be carried by fruits and vegetables commercially imported into the United States or brought to the ports of the United States as ships' stores or casually by passengers or others, and (2) that the unrestricted importation of fruits and vegetables from the countries and localities enumerated may result in the entry into the United States of injurious insects, including fruit and melon flies (Tephritidae).

(b) The Secretary of Agriculture, under authority conferred by the act of Congress approved August 20, 1912 (37 Stat. 315; 7 U.S.C. 151-167), does hereby declare that it is necessary, in order to prevent the introduction into the United States of certain injurious insects, including fruit and melon flies (Tephritidae), to forbid, except as provided in the rules and regulations supplemental hereto, the importation into the United States of fruits and vegetables from the foreign countries and localities named and from any other foreign country or locality, and of plants or portions of plants used as packing material in connection with shipments of such fruits and vegetables.

(c) On and after November 1, 1923, and until further notice, the importation from all foreign countries and localities into the United States of fruits and vegetables, and of plants or portions of plants used as packing material in connection with shipments of such fruits and vegetables, except as provided in the rules and regulations supplemental hereto, is prohibited: *Provided,* That whenever the Deputy Administrator for the Plant Protection and Quarantine Programs shall find that existing conditions as to pest risk involved in the importation of the articles to which the regulations supplemental hereto apply, make it safe to modify, by making less stringent, the restrictions contained in any of such regulations, he shall publish such findings in administrative instructions, specifying the manner in which the regulations shall be made less stringent, whereupon such modification shall become effective; or he may, when the public interests will permit, with respect to the importation of such articles into Guam, upon request in specific cases, authorize such importation under conditions, specified in the permit to carry out the purposes of this subpart, that are less stringent than those contained in the regulations.

(d) This section leaves in full effect all special quarantines and other orders now in force restricting the entry into the United States of fruits and vegetables with the exception of Quarantine No. 49, with regulations, on account of the citrus black fly, which is replaced by this section.

(e) As used in this section unless the context otherwise requires, the term "United States" means the continental United States, Guam, Hawaii, Puerto Rico, and the Virgin Islands of the United States.

§ 319.56a Administrative instructions and interpretation relating to entry into Guam of fruits and vegetables under § 319.56.

(a) The following fruits and vegetables may be imported into Guam without treatment except as it may be required under § 319.56-6 and they shall otherwise be subject to all the requirements of this subpart as modified by this section:

(1) All fruits and vegetables from the Marianas Islands.

(2) All leafy vegetables and root crops from the Bonin Islands, Volcano Islands, and Ryukyu Islands.

(3) All fruits and vegetables from the Caroline Islands, except citrus fruits, and except taro from the Palau and Yap districts (the excepted products are not approved for entry into Guam under § 319.56 without treatment).

(4) Allium, artichokes, bananas, bell peppers, cabbage, carrots, celery, Chinese cabbage, citrus fruits, eggplant, grapes, lettuce, melons, okra, parsley, peas, persimmons, potatoes, rhubarb, squash (*Cucurbita maxima*), stone and pome fruits, string beans, sweetpotatoes, tomatoes, turnip greens, turnips, and watermelons, from Japan and Korea.

(5) Leafy vegetables, celery, and potatoes, from the Philippine Islands.

(6) Carrots (without tops), celery, lettuce, peas, potatoes, and radishes (without tops), from Australia.

(7) Carrots (without tops), celery, chives, garlic, leek, onions, arrowroot, kale, cow-cabbage, cauliflower, broccoli, cabbage, bean sprouts, asparagus, Portuguese cabbage, cassava, dasheen, gingerroot, horseradish, kudzu, lettuce, turnip, udo, water chestnut, watercress, waterlilyroot, and yam bean root, from Taiwan (Formosa).

(8) Lettuce from Netherlands New Guinea.

(9) Carrots, celery, lettuce, loquats, onions, persimmons, potatoes, tomatoes, and stone fruits, from New Zealand.

(10) Asparagus, carrots (without tops), celery, lettuce, and radishes (without tops) from Thailand.

(11) Green corn on the cob.

(12) All other fruits and vegetables administratively approved for entry into any other part or port of the United States, except those for which a treatment is specified as a condition of entry and except any which are now, or may subsequently be, specifically designated in this section as not approved.

(b) The inspector in Guam may, in his judgment, accept an oral application and issue an oral permit for products within paragraph (a) of this section, which shall be deemed to fulfill the requirements of §§ 319.56-3 and 319.56-4. He may waive the documentation required in § 319.56-5 for such products whenever he shall find that information available from other sources meets the requirements under this subpart for the information normally supplied by such documentation.

(c) The provisions of §§ 319.56-2a and 319.56-2b shall not apply to chestnuts and acorns imported into Guam and they shall be enterable without further permit, other than the authorization contained in this paragraph, and without other restriction under this subpart, in accordance with the second paragraph of § 319.56-2. Inspections of such importations may be made under the general authority of § 330.105(a) of this chapter. If an importation is found infected, infested, or contaminated with any plant pest and is not subject to disposal under this part, disposition may be made in accordance with § 330.106 of this chapter.

(d) Coconuts with husks are not approved for entry into Guam from the Trust Territory under § 319.56.

(e) Application of the provisions of §§ 319.56-2d, and 319.56-2f to § 319.56-2m, inclusive, is impracticable in the case of traffic into Guam and therefore such application is withdrawn. The fruits and vegetables which are the subject of said provisions are not enterable into Guam except as they are now, or may later be, listed in paragraph (a) of this section. Yams are included in the listings in paragraphs (a) (1) and (2) of this section.

(f) Baskets or other containers made of coconut fronds are not approved for use as containers for fruits and vegetables imported into Guam. Fruits and vegetables in such baskets or containers offered for importation into Guam will not be regarded as meeting the requirement of the first paragraph of § 319.56-2.

[24 FR 10788, Dec. 29, 1959, as amended at 29 FR 2329, Feb. 11, 1964; 29 FR 6614, May 21, 1964; 31 FR 5607, Apr. 9, 1966; 34 FR 14638, Sept. 20, 1969; 35 FR 9105, June 12, 1970; 35 FR 16678, Oct. 28, 1970]

RULES AND REGULATIONS

§ 319.56-1 Definitions.

(a) *Fresh fruits and vegetables.* The edible, more or less succulent, portions of food plants in the raw or unprocessed state, such as bananas, oranges, grapefruit, pineapples, tomatoes, peppers, lettuce, etc.

(b) *Plants or portions of plants.* Leaves, twigs, or other portions of plants, or plant litter or rubbish as distinguished from clean fruits and vegetables, or other commercial articles.

(c) *Port of first arrival.* The first port within the United States where the shipment is (1) offered for consumption entry or (2) offered for entry for immediate transportation in bond.

(d) *Inspector.* An inspector of the Plant Protection and Quarantine Programs, United States Department of Agriculture.

§ 319.56-2 Restrictions on entry of fruits and vegetables.

(a) All importations of fruits and vegetables must be free from plants or portions of plants, as defined in § 319.56-1(b).

(b) Dried, cured, or processed fruits and vegetables (except frozen fruits and vegetables), including cured figs and dates, raisins, nuts, and dried beans and peas, may be imported without permit or other compliance with the regulations in this subpart: *Provided,* That any such articles may be made subject to entry only under permit and on compliance with the safeguards to be prescribed therein, when it shall be determined by the Secretary of Agriculture that the condition of drying, curing, or processing to which they have been subjected may not entirely eliminate risk. Such determination with respect to any such articles shall become effective after due notice.

(c) Fruits and vegetables grown in the Dominion of Canada and in Newfoundland,[1] including its mainland territory of Labrador, may be imported into the United States from these countries free from any restrictions whatsoever under the regulations in this subpart.

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[1] The importation of potatoes into the United States from Newfoundland and all other foreign countries, except the Dominion of Canada and Bermuda, is governed by the restricted entry order and regulations in §§ 321.1 through 321.8 of this chapter.

(d) Fruits and vegetables grown in the British Virgin Islands may be imported into the Virgin Islands of the United States without further permit other than the authorization contained in this paragraph but subject to the requirements of the first paragraph of this section, and of §§ 319.56–5, 319.56–6 and § 319.56–7, except that such fruits and vegetables are exempted from the notice of arrival requirements of § 319.56–5 when an inspector shall find that equivalent information is obtainable from the United States Collector of Customs.

(e) Any other fruit or vegetable, except as restricted, as to certain countries and districts, by special quarantines[2] and other orders[1] now in force and by such restrictive orders as may hereafter be promulgated, may be imported from any country under permit and on compliance with the regulations in this subpart, at such ports as shall be authorized in the permits, on presentation of evidence satisfactory to the United States Department of Agriculture either: (1) That such fruits and vegetables are not attacked in the country of origin by injurious insects, including fruit and melon flies (Tephritidae), or (2) that their importation from definite areas or districts under approved safeguards prescribed in the permit can be authorized without risk, or (3) that they have been treated, or are to be treated, in accordance with such conditions and procedure as may be prescribed by the Deputy Administrator of the Plant Protection and Quarantine Programs, under the supervision of a plant quarantine inspector of the said Department.

(f) Pending development of adequate treating facilities in Guam, fruits and vegetables that are subject to treatment as a condition of entry therein must first be entered and treated in accordance with the requirements of this subpart at a United States port of arrival where such treating facilities are available.

§ 319.56–2a Permits required for entry of chestnuts and acorns and certain coconuts.

It has been determined that the drying and processing of chestnuts and acorns, and of coconuts imported into Guam from the Trust Territory, may not entirely eliminate risk of spread of injurious insects. Therefore, notice is hereby given that chestnuts and acorns of all varieties and species may be imported into any part of the United States from any foreign country and coconuts may be imported into Guam from the Trust Territory, only under permit and upon compliance with the safeguards prescribed therein pursuant to § 319.56–2.

§ 319.56–2b Administrative instructions; conditions governing the entry of acorns and chestnuts.

(a) *Countries other than Canada and Mexico.* Except for importations of acorns and chestnuts grown in and shipped from Canada and Mexico, acorns and chestnuts are permitted entry into the United States under permit, for purposes other than propagation, under the provisions of § 319.56 as follows:

(1) *Condition of entry.* Notwithstanding § 319.56–2(e) (1) and (2), all shipments of acorns and chestnuts are required to be treated as a condition of entry. Fumigation with methyl bromide in accordance with procedures described in this section is effective against the chestnut and acorn weevils, *Curculio elephas* (Cyllenhal) and *C. nucum* Linnaeus; the nut fruit tortrix, et al., *Laspeyresia splendana* (Hubner), *Laspeyresia* spp., and *Hemimene juliana* (Curtis); and other insect pests of chestnuts and acorns. Accordingly, this treatment is approved as a condition of entry in connection with the issuance of permits under § 319.56–4 for the importation of chestnuts and acorns from any country except Canada and Mexico.

(2) *Ports of entry.* Acorns and chestnuts to be offered for entry may be shipped from the country of origin to United States ports which are named in the permit.

(3) *Approved fumigation.* The approved treatment shall consist of fu-

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[2] The importation of citrus fruits into the United States from eastern and southeastern Asia and certain other areas is restricted by the Citrus Fruit Quarantine, § 319.28.

migation with methyl bromide. The acorns and chestnuts may be fumigated in vacuum or normal atmospheric chambers, van containers, or tarpaulins that have been approved for that purpose by the Plant Protection and Quarantine Programs. When the fumigation is carried out under tarpaulins or in van containers, it must be accomplished in a manner satisfactory to the inspector by insuring adequate air and commodity temperatures, and proper volatilization, distribution, and concentration of the fumigant. Fumigation with methyl bromide shall be in accordance with the following schedules:

(i) In chamber at normal atmospheric pressure (NAP):

Temperature (° F.)	Methyl bromide dosage in pounds per 1,000 cu. ft.	Exposed period (hours)
90-96	4	3
80-89	4	4
70-79	5	4
60-69	5	5
50-59	6	5
40-49	6	6

(ii) In chamber at 26" vacuum:

Temperature (° F.)	Methyl bromide dosage in pounds per 1,000 cu. ft.	Exposed period (hours)
80-96	3	2
70-79	4	2
60-69	4	3
50-59	4	4
40-49	4	5

(iii) In van containers or under tarpaulins: Fumiscope readings are required to assure minimum gas concentration as specified in this paragraph (a)(3)(iii) of this section at the end of the first one-half hour and at the completion of the exposure period.

Temperature (° F.)	Methyl bromide dosage in pounds per 1,000 cu. ft.	Exposed period (hours)
90-96 (minimum concentration first ½ hour—58 oz.). (minimum concentration at completion—34 oz.).	4	3
80-89 (minimum concentration first ½ hour—58 oz.). (minimum concentration at completion—32 oz.).	4	4
70-79 (minimum concentration first ½ hour—72 oz.). (minimum concentration at completion—42 oz.).	5	4
60-69 (minimum concentration first ½ hour—72 oz.). (minimum concentration at completion—40 oz.).	5	5
50-59 (minimum concentration first ½ hour—85 oz.). (minimum concentration at completion—50 oz.).	6	5
40-49 (minimum concentration first ½ hour—85 oz.). (minimum concentration at completion—48 oz.).	6	6

The fumigation temperatures used in these treatment schedules shall be that of the nut kernels. Acorns and chestnuts fumigated in van containers or under tarpaulins must be stacked in the container to provide for circulation of the fumigant under the load. Refrigerated van containers fitted with floor grooves meet this requirement. Van containers not fitted with floor grooves and tarpaulins should have provision for air circulation under the load by use of dunnage or pallets. Minimum concentrations of fumigant during the exposure period shall be maintained as specified in the treatment schedules. Because of the presence of various gases emitted by the nuts, special filtering procedures will be necessary for determination of the actual fumigant concentrations. At the end of the treatment exposure period the nuts shall be aerated for a minimum of one-half hour.

(4) *Supervision of treatment.* The treatment approved in this section must be conducted under the supervision of an inspector of the Plant Protection and Quarantine Programs. The

inspector shall require such safeguards in each specific case for unloading and handling of the nuts at the port of entry, transportation of the nuts from the place of unloading to the treatment facilities, and their handling during fumigation and aeration as required by paragraph (a)(3) of this section, as he deems necessary to prevent the spread of plant pests and assure compliance with the provisions of this subpart. If any part of the treatment is conducted in the country of origin, the person or organization requesting the service must enter into a formal agreement with the Plant Protection and Quarantine Programs to secure the services of an inspector.

(5) *Costs.* All costs of treatment, required safeguards, and supervision, other than the services of the supervising inspector during regularly assigned hours of duty and at the usual place of duty, shall be borne by the owner of the commodity or his representative.

(6) *Department not responsible for damages.* The treatment prescribed in paragraph (a)(3) of this section is judged from experimental tests to be safe for use with acorns and chestnuts. However, the Department assumes no responsibility for any damage sustained through or in the course of the treatment, or because of safeguards required under paragraph (a)(4) of this section.

(b) *Canada and Mexico.* Acorns and chestnuts grown in and shipped from Canada and Mexico for purposes other than propagation are enterable without permit or further restriction under this subpart.

(c) *Nuts for propagation.* Acorns and chestnuts from any country may be imported for purposes of propagation only in accordance with § 319.37.

[37 FR 19799, Sept. 22, 1972]

§ 319.56–2c Administrative instructions authorizing the importation of frozen fruits and vegetables.

(a) The type of treatment designated in this subpart as freezing shall be one of those treatments commonly known as quick freezing, sharp freezing, or frozen pack. In general this involves an initial quick freezing at subzero temperatures with subsequent storage and transportation handling at not higher than 20° F. Any equivalent freezing method is also included in this designation.

(b) The Deputy Administrator of the Plant Protection and Quarantine Programs, under authority contained in § 319.56–2, hereby prescribes freezing as a satisfactory treatment for all fruits and vegetables enterable under permit under § 319.56. Such frozen fruits and vegetables may be imported from any country under permit, on compliance with §§ 319.56–1 through 319.56–7 (exclusive of non-related administrative instructions), at such ports as shall be authorized in the permits.

(c) Such fruits and vegetables may not be removed from the vessel or vehicle transporting them until it has been determined by an inspector of the Plant Protection and Quarantine Programs that they are in a satisfactory frozen state on arrival in this country.

(d) If the temperature of the fruits or vegetables in any part of such an importation is found to be above 20° F. at the time of inspection upon arrival, the entire shipment shall remain on board the vessel or vehicle under such safeguards as may be prescribed by the inspector of the Plant Protection and Quarantine Programs until the temperature of the shipment is below 20° F., or the shipment is transported outside the United States or its territorial waters, or is otherwise disposed of to the satisfaction of the inspector.

(e) The importation from foreign countries of frozen fruits and vegetables is not authorized when such fruits and vegetables are subject to attack in the area of origin, by plant pests that may not, in the judgment of the Deputy Administrator of the Plant Protection and Quarantine Programs, be destroyed by freezing.

(f) Freezing of fruits and vegetables as authorized in the instructions in this section is considered necessary for the elimination of pest risk, and no liability shall attach to the United States Department of Agriculture or to any officer or representative of that Department in the event of injury resulting to fruits or vegetables offered for entry in accordance with the instructions in this section.

§ 319.56-2d Administrative instructions for cold treatments of certain imported fruits.

(a) *Treatments authorized.* The following cold treatments are authorized for imported fresh fruits enterable under § 319.56-2 under permit and upon compliance with applicable regulations in this subpart:

(1) *Phases of treatments.* Authorized cold treatments shall consist of (i) precooling, during which the fruit shall be cooled until its pulp temperature is at or below a level designated in or under this paragraph and (ii) refrigeration, during which the fruit shall be held at or below this level for a number of days designated in or under this paragraph.

(2) *Refrigeration temperatures and periods.* (i) Fruit cold treated because of the Mediterranean fruit fly shall be refrigerated for one of the following periods at or below the respective temperature designated:

10 days—32° F.
11 days—33° F.
12 days—34° F.
14 days—35° F.
16 days—36° F.

(ii) Fruit cold treated because of fruit flies of the genus Anastrepha (other than A. ludens (Loew)) shall be refrigerated for one of the following periods at or below the respective temperature designated:

11 days—32° F.
13 days—33° F.
15 days—34° F.
17 days—35° F.

(iii) Fruit cold treated because of the Mexican fruit fly (A. ludens (Loew)) shall be refrigerated for one of the following periods at or below the respective temperature designated:

18 days—33° F.
20 days—34° F.
22 days—35° F.

(iv) Fruit cold treated because of the Queensland fruit fly (*Dacus tryoni* (Frogg.)) shall be refrigerated for one of the following periods at or below the respective temperatures designated:

13 days—32° F.
14 days—33° F.

(v) Fruit cold treated because of the false codling moth (*Crytophlebia (Argyroploce) leucotreta*) shall be refrigerated for not less than 22 days at or below 31° F. If the temperature of the fruit rises above 31.5° F. while under treatment, it may be compensated for by extending the treatment one-third of a day for each day or part of a day the 31.5° F. temperature is exceeded. Should the temperature of the fruit exceed 34.5° F. at any time during the period of treatment, the treatment is nullified.

Refrigeration temperatures and periods for fruit to be cold treated because of other species of insects may be designated by the Deputy Administrator of the Plant Protection and Quarantine Programs, if experimental data are available concerning applicable treatments of known effectiveness.

(b) *Place and manner of treatments*—(1) *Places of precooling and refrigeration.* Refrigeration may be conducted while the fruit is on shipboard in transit to the United States. If not so refrigerated, the fruit shall be both precooled and refrigerated after arrival only in cold storage warehouses approved by the Deputy Administrator of the Plant Protection and Quarantine Programs and located at the port of New York or such other northern ports as he may hereafter designate. Fruit which is to be refrigerated in transit shall be precooled either at a dockside refrigeration plant prior to loading aboard the carrying vessel, or aboard the carrying vessel. Refrigeration shall be completed in the compartment or room in which it is begun.

(2) *Precooling of fruit before departure.* Fruit which is to be refrigerated in transit must be precooled to the temperature designated in or under paragraph (a) of this section. The precooling may be conducted in accordance with either paragraph (b)(2) (i) or (ii) of this section:

(i) Fruit may be precooled at a dockside refrigeration plant prior to loading aboard the carrying vessel. Such fruit shall be precooled to a temperature at which it can be transferred to the refrigerated compartments on such vessel without a rise above the maximum temperature prescribed in or under paragraph (a) of this section. A responsible official of the Department of Agriculture of the country of origin shall sample fruit temperatures in all sections of the lot of fruit until he is satisfied that complete precooling has been accomplished in accordance with this section and shall issue a certificate to that effect. As the loading proceeds the certifying official shall take frequent temperature readings of individual boxes of fruit. A record of such temperature readings shall accompany the certificate.

(ii) Fruit may be precooled aboard the carrying vessel. Such fruit shall be precooled in the same refrigerated compartments in which it is to be refrigerated. The boxes of the fruit shall be spaced by horizontal wooden strips, so that each has at least 1 inch of clearance above and below to allow free circulation of the cooling air. At least 2 inches of clearance shall be allowed between stacks of the fruit. Carriers desiring consideration of alternate spacing arrangements may apply to the Plant Protection and Quarantine Programs.

(3) *Refrigeration in transit.* (i) Refrigeration in transit shall consist of holding the fruit temperature at or below the maximum temperature level for the number of days prescribed in or under paragraph (a) of this section. A continuous, automatic temperature record under lock shall be maintained from at least four locations to be designated in each refrigerated compartment by an inspector of the Plant Protection and Quarantine Programs. In large refrigerated compartments additional temperature elements may be required. Charts from the temperature recording apparatus shall be made readily available to an inspector of such Plant Protection and Quarantine Programs at the port of arrival.

(ii) Refrigeration shall begin when the loading of precooled fruit has been completed or when precooling aboard the vessel has been completed. Refrigeration shall continue until the vessel arrives at the port of destination and the fruit is released for unloading by an inspector of the Plant Protection and Quarantine Programs, even though this may prolong the refrigeration beyond the required period. At least once during every 24-hour period, the responsible ship's officer shall sign the temperature chart, noting thereon the date and time.

(4) *Safeguarding untreated fruit.* Whenever fruit is offered for entry as cold treated in transit and it cannot be established to the satisfaction of such inspector that the fruit has received the required cold treatment, such safeguards against the spread of fruitfly infestation as the inspector may prescribe shall be immediately applied.

(5) *Cold treatment after arrival.* (i) Fruit to be both precooled and refrigerated after arrival in the United States shall be delivered under the supervision of an inspector of the Plant Protection and Quarantine Programs to the approved cold storage warehouse where such treatment is to be conducted.

(ii) The fruit must arrive at a temperature sufficiently low to prevent insect activity and shall be promptly precooled and refrigerated. An automatic, continuous temperature record is required of each refrigeration, like that prescribed in paragraph (b)(3) of this section for refrigeration in transit. The number of records required will be designated by the inspector for each refrigeration, depending upon the circumstances of each operation.

(iii) Shipments offered for entry before cold treatment may be allowed to leave customs custody under redelivery bond for cold treatment. Final release of the shipment by the United States Collector of Customs, or, in the case of Guam, by the Customs officer of the Government of Guam, will be effected after the inspector has notified the said Customs official that the required cold treatment has been given.

(6) *Containers and season of arrival.* Containers should be uniform and suitably constructed to maintain firm stacking in the compartment throughout the voyage. Shipments may be made during any season of the year. Untreated fruit arriving in broken containers must be immediately repacked under the supervision of an inspector or the contents must be immediately

destroyed in a manner satisfactory to the inspector.

(7) *Procedures in country of origin.* (i) By arrangement between the Deputy Administrator of the Plant Protection and Quarantine Programs and the equivalent official in the country of origin, certifying officials will be designated by the country of origin. Their signatures shall be filed with the Plant Protection and Quarantine Programs.

(ii) Each container of fruit intended for intransit refrigeration shall be stamped or marked as it is loaded on the carrying vessel so that it can be readily identified as such. Fruit being shipped under permit to be completely cold treated at the Port of New York or other subsequently designated northern ports shall not be so marked.

(iii) Fruit precooled at a dockside refrigeration plant shall be transferred to the refrigerated compartments on the carrying vessel without a rise in temperature above the maximum for the desired refrigeration. When this transfer has been accomplished, the certifying official shall issue a certificate of precooling.

(iv) Fruit to be precooled on the carrying vessel in the refrigerated compartments shall be loaded under supervision of the certifying official to assure that all packages have the proper clearance on all sides.

(v) Fruit in transit for cold treatment after arrival shall be loaded in a separate compartment and segregated from any fruit that is being refrigerated in transit.

(vi) Fruit not intended for any phase of cold treatment shall not be loaded in the same refrigerated compartment with fruit to be given such cold treatment.

(vii) The certifying official shall calibrate the elements of the temperature recording instruments not more than 3 days prior to the loading of fruit, by immersing them in a 32° F. mixture of crushed ice and fresh water, and recording their deviation from 32° F. He shall also supervise the placement of the temperature elements in the proper places in the cargo of fruit.

(viii) The certifying official shall record the following data, noting the date and time, on the temperature chart: (*a*) Commencement of loading of each compartment, (*b*) insertion of the sensing elements into the fruit, and (*c*) completion of loading of each compartment.

(ix) The certificate of precooling, when required, shall be issued in quadruplicate, to cover the cargo of one vessel. The original certificate shall be airmailed to the inspector of the Plant Protection and Quarantine Programs in charge at the port of destination. One copy shall accompany the carrying vessel. The third copy shall be mailed to the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20520. A record showing calibration of the elements of the temperature recording instruments, as required in paragraph (b)(7)(vii) of this section shall be attached to each certificate, along with any record of the fruit temperature readings required in paragraph (b)(2)(i) of this section. The certificate shall also show the identifying stamp or mark placed on all containers of fruit undergoing intransit refrigeration.

(c) *Approval of precooling plants, refrigerated compartments, warehouses.* All precooling plants in the country of origin, the refrigerated compartments on the carrying vessels, and cold storage warehouses at the Port of New York or subsequently designated northern ports must have prior approval of the Deputy Administrator of the Plant Protection and Quarantine Programs before any phase of cold treatment is begun. Requests for such approval shall be made to the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250.[1] Hereafter before a shipboard refrigeration installation will be approved it must first be certified by the American Bureau of Shipping or a comparable agency as in good order, with the insulated spaces clean and otherwise in satisfactory condition.

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[1] Applications for permits to import fruit under this subpart may be made to the Permit Unit, PPQ, APHIS, Room 638, Federal Building, Hyattsville, Md. 20782.

(d) *Caution and disclaimer.* The cold treatments required for the entry of fruit are considered necessary for the elimination of plant pests, and no liability shall attach to the U.S. Department of Agriculture or to any officer or representative of that Department in the event injury results to fruit offered for entry in accordance with these instructions. In prescribing cold treatments of certain fruits, it should be emphasized that inexactness and carelessness in applying the treatments may result in injury to the fruit, or its rejection for entry. Oranges have been successfully cold treated for the false codling moth in commercial shipments at the temperature prescribed in paragraph (a)(2)(v) of this section. Since commercial varieties of oranges show a wide variation in acceptable refrigeration temperatures, it is recommended that extensive tests be made with each variety in the country of origin before shipping in commercial quantities.

[31 FR 16601, Dec. 29, 1966; as amended at 32 FR 12832, Sept. 8, 1967; 32 FR 13215, Sept. 19, 1967; 35 FR 5031, Mar. 25, 1970; 36 FR 24917, Dec. 24, 1971; 37 FR 10554, May 25, 1972]

§ 319.56-2e Administrative instructions; conditions governing the entry of cipollini from Morocco.

(a) Shipments of cipollini (Muscari comosum) from Morocco have frequently been found infested at time of entry with an injurious insect, Exosoma lusitanica, not known to occur in the United States. The limited type of inspection at our disposal is not considered adequate to detect all cases of infestation and, since the effectiveness of methyl bromide fumigation in freeing this product from the insect in question is now well established, it has been decided to require this fumigation as a condition of entry for future shipments.

(b) On and after December 7, 1939, therefore, fumigation with methyl bromide will be a condition of entry for all shipments of cipollini from Morocco. This treatment shall be carried out under the supervision of a plant quarantine inspector at the expense of the importer, and release of the shipment will be withheld until the treatment has been completed. In addition to fumigation only such inspection will be given as the inspector may judge necessary from time to time to determine pest conditions on arrival or to assure himself of the effectiveness of the treatment.

(c) The entry of cipollini from Morocco may be made only through the ports of New York and Boston at which ports facilities for vacuum fumigation with methyl bromide, as herein required, are available.

[24 FR 10788, Dec. 29, 1959. Redesignated at 50 FR 9788, Mar. 12, 1985]

§ 319.56-2f Administrative instructions prescribing method of treatment of oranges, grapefruit, tangerines, and Manila mangoes from Mexico.

(a) *Conditions for issuance of permits.* (1) Either of the approved vapor-heat schedules of treatment specified in paragraph (b) of this section will meet the treatment requirements imposed under § 319.56-2 as a condition of the issuance of permits for (i) the importation from Mexico of commercially-sound oranges, free of leaves and other plant debris, or (ii) the importation from Mexico during the 5-month period beginning November 1 and ending the following March 31, of commercially-sound tangerines, with tight skins and free from air pockets or puffiness, and free of leaves and other debris.

(2) The approved vapor-heat schedule of treatment specified in paragraph (b)(1) of this section will meet the treatment requirements imposed under § 319.56-2 as a condition of the issuance of permits for the importation from Mexico of commercially sound grapefruit and Manila mangoes, free of leaves and other plant debris.

(3) The treatment must be conducted in a heat-treating room approved by the Plant Protection and Quarantine Programs and must be conducted under the supervision of an inspector of that Program, who at all times shall have access to such fruits while they are undergoing treatment.

(4) The Plant Protection and Quarantine Programs will approve only

those rooms which are properly constructed and adequately equipped to handle and treat such fruits, at locations acceptable to the inspector in areas where required supervision can be furnished. No treating plant will hereafter be approved until it is equipped with a self-recording temperature and humidity indicator acceptable to the inspector.

(5) All handling in Mexico subsequent to treatment of such fruits intended for shipment to the United States must be carried out to meet requirements satisfactory to the inspector and under such supervision as he may deem necessary.

(6) All costs of construction, equipping, maintaining and operation of treating rooms and those associated with prescribed post-treatment safeguards shall be borne by the owner of such fruits, or his representative.

(7) Supervision at places contiguous to ports of entry where inspectors are regularly stationed will be furnished without cost to the owner of the fruit, or his representative.

(8) In cases where treating rooms are located in the interior of Mexico, or at places removed from ports of entry where inspectors are regularly stationed, those in interest must make advance arrangements for approval of the plant and for supervision, and furnish the Deputy Administrator of the Plant Protection and Quarantine Programs with acceptable assurance that they will provide, without cost to the United States Department of Agriculture, all salaries, transportation, per diem, and other incidental expenses for the supervising inspectors, including the payment to the inspectors of additional compensation for their services in excess of 40 hours weekly, according to rates established for the payment of Plant Protection and Quarantine Programs inspectors.

(9) In the tests and experiments so far conducted with the approved treating schedules such fruits have not been injured. It is, however, emphasized that inexactness and carelessness in using the approved schedules for vapor-heat treatment may result in injury to the fruit treated. In authorizing the use of the treatment specified in paragraph (b) of this section, the United States Department of Agriculture does not accept responsibility for fruit injury.

(b) *Vapor-heat method of treatment and approved schedules.* In approved vapor-heat treatment the fruit is heated by saturated vapor at 110° F. which in condensing on the fruit gives up its latent heat. This latent heat is essential in assuring mortality of eggs and larvae of the fruitflies known to occur in Mexico and in raising the temperature of the fruit evenly and quickly so as to prevent damage to the fruit. In practice in such treatments the saturated vapor is accompanied by a fine water mist and air admixture. The fruit is cooled immediately after treatment, and no wax or paraffin, either dry or in solution, is used until after the treatment has been completed. Vapor-heat treatment is approved only if the vapor conditions within the heat-treating room, the manner of stacking the field boxes containing the fruit in the room and all other conditions affecting the efficacy of the treatment are satisfactory in the opinion of the supervising inspector, to assure mortality of eggs and larvae of the fruitflies known to occur in Mexico. The following schedules of vapor-heat treatment, when conducted in accordance with the principles stated above in this paragraph and in paragraph (a) of this section, are approved:

(1) The temperature of the fruit shall be raised to 110° F., at the approximate center of the fruit, in a period of 8 hours and shall be held at that level during the following 6 hours. This method is adapted to sterilization plants that do not have the capacity to increase the temperature of the fruit steeply at the beginning of the treating period.

(2) The temperature of the fruit shall be raised to 110° F., at the approximate center of the fruit, in a period of 6 hours and shall be held at that level during the following 4 hours. The temperature of the fruit must be raised rapidly during the first 2 hours, after which it may be gradually raised to 110° F. in the following 4 hours.

[24 FR 10788, Dec. 29, 1959. Redesignated at 50 FR 9788, Mar. 12, 1985]

§ 319.56-2g Administrative instructions prescribing method of treatment of garlic from specified countries.

(a)(1) Except as otherwise provided in these administrative instructions, fumigation with methyl bromide in vacuum fumigation chambers approved by the Deputy Administrator of the Plant Protection and Quarantine Programs is a condition of entry under permit for all shipments of garlic (*Allium sativum*) from Algeria, Austria, Czechoslovakia, Egypt, France, Greece, Hungary, Iran, Israel, Italy, Morocco, Portugal, South Africa (Republic of), Spain, Switzerland, Syria, Turkey, Union of Soviet Socialist Republics, West Germany, and Yugoslavia. Fumigation is to be carried out under the supervision of a plant quarantine inspector and at the expense of the importer. While it is believed that the garlic will be unaffected by the fumigation, the treatment will be at the importer's risk. Such entry will be limited to ports named in the permits, where approved facilities for vacuum fumigation with methyl bromide are available.

(2) Such vacuum fumigation shall be in accordance with the following fumigation schedule:

Temperature (° F.)	Dosage—pounds of methyl bromide per 1,000 cu. ft.	Exposure period (hours)	Vacuum (inches)
90–96 (inclusive)	2	1½	15
80–89 (inclusive)	2	2	15
70–79 (inclusive)	2½	2	15
60–69 (inclusive)	3	2	15
50–59 (inclusive)	3	3	15
40–49 (inclusive)	3	4	15

(b)(1) The following alternate procedure is approved by the Deputy Administrator of the Plant Protection and Quarantine Programs as a condition of entry under permit for shipments of garlic (Allium sativum) from Italy and Spain:

(i) A certificate shall be obtained from the appropriate phytosanitary official of the country of origin to the effect that such garlic is free of living stages of Brachycerus spp. and Dyspessa ulula (Bkh.), said certification to be based on field inspection and certification and subsequent reexamination at the port of departure prior to exportation. The phytosanitary certificate to be issued by such official shall show the shipment to be either initially free from these pests or to have been fumigated.

(ii) The original copy of the phytosanitary certificate shall be attached to the manifest accompanying the shipment. However, with the consent of the Plant Quarantine inspector, the importer may arrange to have the original phytosanitary certificate mailed direct to the Inspector in Charge, Plant Protection and Quarantine Programs, at the port of entry, if this will expedite inspection and release of certified shipments. If such an arrangement is made, a copy of the phytosanitary certificate shall be attached to the manifest accompanying the shipment.

(iii) Shipments of certified Italian or Spanish garlic will be subject to inspection upon arrival in the United States and if found infested with living stages of Brachycerus spp. or Dyspessa ulula (Bkh.) shall be fumigated in accordance with paragraph (a) of this section.

(2) The entry of certified garlic under the alternate procedure provided for in paragraph (b)(1) of this section will be limited to the ports named in paragraph (a)(1) of this section or such other ports as may subsequently be named in the permits.

(3) Continuance of the alternate procedure provided for in paragraph (b)(1) of this section for the importation of Italian or Spanish garlic is contingent upon the satisfactory observance of such procedure by the respective countries of origin.

[24 FR 10788, Dec. 29, 1959, as amended at 35 FR 18385, Dec. 3, 1970; 36 FR 24917, Dec. 24, 1971. Redesignated at 50 FR 9788, Mar. 12, 1985]

§§ 319.56-2h—319.56-2i [Reserved]

§ 319.56-2j Conditions governing the entry of apples and pears from Australia (including Tasmania) and New Zealand.[2]

Apples and pears from Australia (including Tasmania) and New Zealand may be imported only in accordance with § 319.56-2(e) (2) or (3) and under permit and in compliance with this section and the other requirements of this subpart.

(a) *Conditions of entry*—(1) *Statistical sample inspection.* A biometrically designed statistical sample will be taken under § 319.56-6 by the inspector of the plant protection and quarantine programs from each shipment[3] of apples and each shipment of pears moved from New Zealand or Australia (including Tasmania), that are offered for entry into the United States and, if inspection of such sample discloses that pests of the family Tortricidae (fruit-leaf roller complex) which are dangerous and destructive pests of apples and pears are not present in the shipment sampled and the shipment therefore does not present a risk of introducing such pest, such fruit may be imported under § 319.56-2(e)(2) without treatment as prescribed in paragraph (a)(2) of this section. If any such pests are found on such inspection the shipment must be treated as prescribed in paragraph (a)(2) of this section.

(2) *Approved fumigation.* Fumigation with methyl bromide in accordance with procedures described in this section is effective against certain insect pests of the family Tortricidae found in Australia (including Tasmania) and New Zealand. Accordingly, this treatment is required as a condition of entry under § 319.56-2(e)(3) for any shipment of apples or pears required to be treated under paragraph (a)(1) of this section.

The fruit may be fumigated in normal atmospheric chambers, under tarpaulins, in van trucks or other enclosures that have been approved for that purpose by an inspector of the plant protection and quarantine programs. When the fumigation is carried out, it must be accomplished in a manner satisfactory to the inspector to insure adequate air and commodity temperatures, and proper volatilization, distribution, and concentration of the fumigant, for effective destruction of all such pests present. Apples and pears to be fumigated may be packed in wooden crates, fiberboard cartons, or other gas-permeable containers. The fruit must be packed so as to provide for maximum distribution of the fumigant. If the fruit is packed in a gas-impervious liner, the liner must be perforated to provide for the entry and aeration of the methyl bromide gas. The individual fruit may be wrapped with tissue paper. Cubic feet of space under fumigation shall include the load of fruit to be fumigated. The exposure period shall begin when all the fumigant which has been introduced into the chamber or enclosure has been volatilized. The fumigation temperatures required in these treatments shall be that of the pulp temperatures of the fruit. Fumigation with methyl bromide shall be in accordance with the following schedules:

(i) Chamber: [1]

MB at NAP	1½ lb for 2 hours at 80°–89° F.
	2 lb for 2 hours at 70°–79° F.
	2½ lb for 2 hours at 60°–69° F.
	3 lb for 2 hours at 50°–59° F.
	4 lb for 2 hours at 40°–49° F.

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[1] [Reserved]

[2] Apples and pears from Australia (excluding Tasmania) where certain tropical fruit flies occur are also subject to the cold treatment requirements of § 319.56-2d.

[3] A shipment is defined as all of a type (genus) of fruit from the same country of origin offered at a U.S. port and from a single carrier, regardless of marks and numbers, growers' lots, Customs entries, or numbers of importers involved.

(ii) Tarpaulin truck van and refrigerator railway car fumigation:	
MB at NAP	1½ lb/1,000 ft^3 for 2½ hours at 80°-89° F. (18 oz minimum gas concentration at ½ hour) (14 oz minimum gas concentration at 2½ hours). 2 lbs/1,000 ft^3 for 2½ hours at 70°-79° F. (25 oz minimum gas concentration at ½ hour) (18 oz minimum gas concentration at 2½ hours). 2½ lbs/1,000 ft^3 for 2½ hours at 60°-69° F. (31 oz minimum gas concentration at ½ hour) (24 oz minimum gas concentration at 2½ hours). 3 lbs/1,000 ft^3 for 2½ hours at 50°-59° F. (36 oz minimum gas concentration at ½ hour) (28 oz. minimum gas concentration at 2½ hours). 4 lb/1,000 ft^3 for 2½ hours at 40°-49° F. (45 oz minimum gas concentration at ½ hour) (34 oz minimum gas concentration at 2½ hours).

[1] MB=methyl bromide; NAP=normal atmospheric pressure.

(3) *Ports of entry.* Apples and pears to be offered for entry under this section may be shipped to any United States port where inspectors are located and which are named in the permit.

(4) *Supervision of treatment.* The treatment approved in this section must be conducted under the supervision of an inspector of the plant protection and quarantine programs. The inspector shall require such safeguards in each specific case for unloading and handling of the fruit at the port of entry, transportation of the fruit from the place of unloading to the treatment facilities, and its handling during fumigation and aeration as required by paragraph (a)(2) of this section, as he deems necessary to prevent the spread of insect pests and assure compliance with the provisions of this subpart.

(5) *Costs.* All costs of treatment, required safeguards, and supervision, other than the services of the supervising inspector during regularly assigned hours of duty and at the usual place of duty, shall be borne by the owner of the fruit or his representative.

(6) *Department not responsible for damages.* The treatment prescribed in paragraph (a)(2) of this section is judged from experimental tests and uses for quarantine purposes to be safe for fumigation of apples and pears. However, the Department assumes no responsibility for any damage sustained through or in the course of the treatment or because of safeguards required under paragraph (a)(4) of this section.

(Secs. 5 and 9, 37 Stat. 316, 318 (7 U.S.C. 159, 162); 37 FR 28464, 28477, as amended; 38 FR 19141)

[38 FR 9005, Apr. 9, 1973, as amended at 47 FR 13320, Mar. 30, 1982. Redesignated at 50 FR 9788, Mar. 12, 1985]

§ 319.56-2k Administrative instructions prescribing method of fumigation of field-grown grapes from specified countries.

Approved fumigation with methyl bromide at normal atmospheric pressure, in accordance with the following procedure, is hereby prescribed as a condition of entry under permit for all shipments of field-grown grapes from the continental countries of southern and middle Europe, North Africa, and the Near East listed in paragraph (a) of this section. This fumigation shall be in addition to other conditions prescribed in the permit as conditions of entry for field-grown grapes from the areas named.

(a) *Continental countries of southern and middle Europe, North Africa, and the Near East.* As used in this section, the term "continental countries of southern and middle Europe, North Africa, and the Near East" means Algeria, Austria, Bulgaria, Cyprus, Egypt, France, Germany, Greece, Hungary, Israel, Italy, Libya, Luxembourg, Portugal, Spain, Switzerland, Syria, and Union of Soviet Socialist Republics.

(b) *Ports of entry.* Grapes to be offered for entry must be shipped from the country of origin to New York or such other North Atlantic ports as may be named in the permit.

(c) *Precooling of fruit.* Grapes to be offered for entry must be shipped under refrigeration and the fruit may not be removed from the vessel until the inspector has satisfied himself that this requirement has been complied with and that the fruit can be moved promptly for treatment without danger of plant pest dissemination.[1]

(d) *Approved fumigation.* Approved fumigation shall consist of fumigation with methyl bromide at normal atmospheric pressure in a fumigation chamber that has been approved for that purpose by the Plant Protection and Quarantine Programs. The fumigation may also be accomplished under tarpaulins in a manner, satisfactory to the inspector, that will insure adequate air and fruit temperatures, volatilization, distribution, and concentration of the fumigant. Such fumigation shall be in accordance with the following fumigation schedule:

Temperature, degrees F.	Methyl bromide dosage in pounds per 1,000 cubic feet	Exposure time—hours
70–79	2	2½
60–69	2½	2½
50–59	3	2½
40–49	3½	2½

(e) *Supervision of fumigation.* Inspectors of the Plant Protection and Quarantine Programs shall supervise the fumigation of grapes and shall prescribe such safeguards as may be necessary for unloading, handling, and transportation preparatory to fumigation or other treatment. The final release of the fruit for entry into the United States will be conditioned upon compliance with prescribed safeguards and required treatments.

(f) *Costs.* All costs of treatment and required safeguards and supervision, other than the services of the supervising inspector during regularly assigned hours of duty and at the usual place of duty, shall be borne by the owner of the grapes or his representative.

(g) *Department not responsible for damage.* The treatment prescribed in paragraph (d) of this section is judged from experimental tests to be safe for use with field-grown grapes. However, the Department assumes no responsibility for any damage sustained through or in the course of such treatment or by compliance with requirements under paragraph (e) of this section or in the precooling of fruit required prior to unloading from the vessel.

[24 FR 10788, Dec. 29, 1959. Redesignated at 50 FR 9788, Mar. 12, 1985]

§ 319.56-21 Administrative instructions prescribing method of treatment of imported yams.

(a) *Fumigation upon arrival.* Except as otherwise provided in paragraph (b) of this section, approved fumigation with methyl bromide at normal atmospheric pressure, in accordance with the following procedure, upon arrival at the port of entry, is hereby prescribed as a condition of importation under permit under § 319.56-2 for shipments of yams from all foreign countries.

(1) *Ports of entry.* Yams to be offered for entry may be shipped, under permit under § 319.56-2, direct from the country of origin to ports in the United States where approved fumigation facilities are available.

(2) *Approved fumigation.* (i) The approved fumigation shall consist of fumigation with methyl bromide at normal atmospheric pressure, in a fumigation chamber that has been approved for that purpose by the Plant Protection and Quarantine Programs. The dosage shall be applied at the following rates:

Temperature, (° F.)	Dosage (pounds of methyl bromide per 1,000 cubic feet)	Exposure period (hours)
90–96	2.5	4
80–89	3.0	4
70–79	3.5	4

(ii) Yams to be fumigated may be packed in slatted crates or other gas-permeable containers. The fumigation chamber shall not be loaded to more than two-thirds of its capacity. The four-hour exposure period shall begin when all the fumigant has been introduced into the chamber and volatilized. Cubic feet of space shall include the load of yams to be fumigated. The required temperatures apply to both the air and the yams. Good circulation above and below the load shall be provided as soon as the yams are loaded in the chamber and shall continue during the full period of fumigation and until the yams have been removed to a well-ventilated location. Fumigation of yams below the minimum temperature prescribed in the fumigation schedule may result in injury to the yams and should be avoided. Yams are sensitive to bruising and should be carefully packed to prevent this. At the same time they should be given as much aeration as possible.

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[1] Grapes from countries where the Mediterranean fruit fly occurs are subject to the cold treatment as described in § 319.56-2d. Under certain conditions such treatment may be effected in transit or upon arrival at the port of New York.

(3) *Other conditions.* (i) Inspectors of the Plant Protection and Quarantine Programs will supervise the fumigation of yams and will specify such safeguards as may be necessary for their handling and transportation before and after fumigation, if, in the opinion of the inspector, this is necessary to assure there will be no pest risk associated with the importation and treatment. Final release of the yams for entry into the United States will be conditioned upon compliance with the specified safeguards.

(ii) Supervision of approved fumigation chambers will, if practicable, be carried on as a part of normal port inspection activities. When so available such supervision will be furnished without cost to the owner of the yams or his representative.

(4) *Costs.* All costs of treatment and required safeguards and supervision, other than the services of the supervising inspector during regularly assigned hours of duty and at the usual place of duty, shall be borne by the owner of the yams, or his representative.

(5) *Department not responsible for damage.* While the prescribed treatment is judged from experimental tests to be safe for use with yams, the Department assumes no responsibility for any damage sustained through or in the course of treatment or because of pretreatment or posttreatment safeguards.

(b) *Alternate procedures.* (1) Yams produced in Japan and offered for entry under a permit issued in accordance with § 319.56–2 shall be subject to examination by an inspector at the port of entry. If this examination shows the yams to be free of plant pests, they may be imported without the fumigation required by paragraph (a) of this section.

(2) Yams produced in Cuba, if satisfactorily treated in Cuba and otherwise handled and certified as provided in this subparagraph will be eligible for entry under permit under § 319.56–2.

(i) *Approved fumigation.* The yams shall be fumigated at approved plants in Cuba in accordance with paragraph (a)(2) of this section.

(ii) *Approval of fumigation plants; costs of supervision.* Fumigation in Cuba will be contingent upon the availability of a fumigation plant, approved by the Deputy Administrator of the Plant Protection and Quarantine Programs, to apply the treatment prescribed in paragraph (a)(2) of this section and upon the availability of qualified personnel for assignment to approve the plant and to supervise the treatment and posttreatment handling of the yams in Cuba. Those in interest must make advance arrangements for approval of the fumigation plant and for supervision, and furnish the Deputy Administrator of the Plant Protection and Quarantine Programs with acceptable assurances that they will provide, without cost to the United States Department of Agriculture, for all transportation, per diem, and other incidental expenses of such personnel and compensation for such personnel for their services in excess of 40 hours weekly, in connection with such approval and supervision, according to the rates established for the payment of inspectors of the Plant Protection and Quarantine Programs.

(iii) *Supervision of fumigation and subsequent handling.* The fumigation prescribed in this paragraph and the subsequent handling of the yams so fumigated must be under the supervision of a representative of the Plant Protection and Quarantine Programs. The treated yams must be safeguarded against insect infestation during the period prior to shipment from Cuba, in a manner required by such representative.

(iv) *Certification.* Yams will be certified by a representative of the Plant Protection and Quarantine Programs in Cuba for entry in to the United States upon the basis of treatment under this subparagraph and compliance with the posttreatment safeguard requirements imposed by such representative. The final release of the yams for entry into the United States will be conditioned upon compliance with such requirements and upon satisfactory inspection on arrival to determine efficacy of treatment.

(v) *Costs.* All costs incident to fumigation, including those for construction, equipping, maintaining and operating fumigation plants and facilities, and carrying out requirements of posttreatment safeguards, and all costs as indicated in paragraph (b)(2)(ii) of this section incident to plant approval and supervision of treatment and subsequent handling of the yams in Cuba shall be borne by the owner of the yams or his representative.

(vi) *Department not responsible for damage.* The treatment prescribed in paragraph (a)(2) of this section is judged from experimental tests to be safe for use with yams. However, the Department assumes no responsibility for any damage sustained through or in the course of treatment, or because of posttreatment safeguards.

(vii) *Ports of entry.* Yams to be offered for entry in accordance with the alternate procedure provided for in this subparagraph may be entered under permit under § 319.56–2 at any United States port where an inspector is stationed.

(viii) *Ineligible shipments.* Any shipments of yams produced in Cuba that are not eligible for certification under the alternate procedure provided for in this paragraph may enter only upon compliance with paragraph (a) of this section.

[24 FR 20788, Dec. 29, 1959. Redesignated at 50 FR 9788, Mar. 12, 1985]

§ 319.56–2m Administrative instructions prescribing method of fumigation of apricots, grapes, nectarines, peaches, and plums from Chile.

Approved fumigation with methyl bromide at normal atmospheric pressure, in accordance with the following procedure, is hereby prescribed as a condition of entry under permit for all shipments of apricots, grapes, nectarines, peaches, and plums from Chile. This fumigation shall be in addition to other conditions that may be prescribed in the permit, such as a limitation as to origin, and requirements as to marking containers, safeguarding shipments from fruit fly infestation, and obtaining Chilean certification.

(a) *Ports of entry.* (1) Grapes from Chile may be imported through all maritime ports when approved facilities are available for fumigation in approved chambers or under tarpaulins.

(2) Apricots, nectarines, peaches, and plums from Chile may be imported through ports on the Great Lakes, or on the Atlantic and Gulf Coasts (exclusive of Florida ports), subject to the availability of such approved fumigation facilities.

(b) *Approved fumigation.* Approved fumigation shall consist of fumigation with methyl bromide at normal atmospheric pressure in a fumigation chamber that has been approved for that purpose by the Plant Protection and Quarantine Programs. The fumigation may also be accomplished under tarpaulins in a manner, satisfactory to the inspector, that will insure adequate air and fruit temperatures, and volatilization, distribution, and concentration of the fumigant. The treatment period shall be 2 hours for chamber fumigation and 2½ hours for tarpaulin fumigation, and the load shall not exceed 80 percent of the chamber volume or area enclosed by the tarpaulin. The fumigation shall be in accordance with the following schedule:

Temperature (° F.)	Dosage—pounds of methyl bromide per 1,000 cu. ft.
80–89 (inclusive)	1½
70–79 (inclusive)	2
60–69 (inclusive)	2½

Temperature (° F.)	Dosage—pounds of methyl bromide per 1,000 cu. ft.
50–59 (inclusive)	3
40–49 (inclusive)	4

(c) *Supervision of fumigation.* Inspectors of the Plant Protection and Quarantine Programs shall supervise the fumigation of apricots, grapes, nectarines, peaches, and plums from Chile and shall prescribe such safeguards as may be necessary for unloading, handling, and transportation preparatory to fumigation or other treatment. The final release of the fruit for entry into the United States will be conditioned upon compliance with prescribed safeguards and required treatments.

(d) *Costs.* All costs of treatment and required safeguards and supervision, other than the services of the supervising inspector during regularly assigned hours of duty and at the usual place of duty, shall be borne by the owner of the fruits or his representative.

(e) *Department not responsible for damage.* The treatment prescribed in paragraph (b) of this section is judged from experimental tests to be safe for use with apricots, grapes, nectarines, peaches, and plums from Chile. However, the Department assumes no responsibility for any damage sustained through or in the course of such treatment or by compliance with requirements under paragraph (c) of this section.

[25 FR 10865, Nov. 16, 1960, as amended at 36 FR 24917, Dec. 24, 1971. Redesignated at 50 FR 9788, Mar. 12, 1985; 50 FR 10750, Mar. 18, 1985]

§ 319.56–2n Administrative instructions prescribing a combination treatment of fumigation plus refrigeration for certain fruits.

Fumigation with methyl bromide at normal atmospheric pressure followed by refrigerated storage, in accordance with the procedures described in this section, is specific for the Mediterranean fruit fly, the oriental fruit fly, and the grape vine moth, and for certain pests of grapes and other fruit from Chile, but may not be effective against certain other dangerous pests of fruit. Accordingly this treatment will be approved for use as an alternative method of treatment to the methods prescribed in § 319.56–2d and § 319.56–2n, in connection with the issuance of permits under § 319.56–4 for the importation of fruits from any country when it is determined that the pest risk involved in the proposed importation is such that it will be eliminated by this treatment.

(a) *Ports of entry.* Fruits to be offered for entry may be shipped from the country of origin to United States ports which are named in the permit.

(b) *Approved treatment.* The phases of the combination treatment shall consist of fumigation and aeration, and a precooling and refrigeration period. The fumigation dosage rates and refrigeration periods are designated in the following table:

Methyl bromide at 70° F. or above dosage	Exposure period	Days of refrigeration at—			
		33°–37° F.	34°–40° F.	43°–47° F.	50°–56° F.
2 pounds/1000 cubic feet	2 hours	4		11	
2 pounds/1000 cubic feet	2½ hours		4	6	10
2 pounds/1000 cubic feet	3 hours			3	6

(1) *Fumigation and aeration.* The approved fumigation shall consist of fumigation with methyl bromide at 70° F. or above at normal atmospheric pressure in a fumigation chamber that has been approved for that purpose by the Plant Protection and Quarantine Programs. The fumigation may also be accomplished under tarpaulins, in a manner satisfactory to the inspector, that will insure adequate air circulation and proper volatilization, distribution, and concentration of the fumigant. The fruit may be packed in field

boxes, slatted crates, or well-perforated, unwaxed cardboard cartons with approved packing material such as wood excelsior or cardboard dividers. The fruit may be individually wrapped with conventional tissue which is gas permeable. When stacking the fruit for fumigation, spacing must be provided to insure adequate gas circulation. The load shall not exceed 80 percent of the volume of the area under fumigation. Following the fumigation, an aeration period of 2 hours is required.

(2) *Precooling and refrigeration period.* At the conclusion of the aeration period, the fruit shall be precooled and refrigerated in approved facilities for any one of the periods designated in the table in this section. Cooling shall begin as soon as possible after the aeration period, but in no event may the time lapse between the termination of fumigation and the beginning of the precooling exceed 24 hours. Cooling to the required refrigeration temperature shall be effected as soon as possible. The refrigeration period shall not commence until the fruit pulp temperatures indicate the prescribed temperature range has been reached.

(c) *Supervision of treatment and subsequent handling.* The treatment approved in this section and the subsequent handling of the fruit so treated must be conducted under the supervision of an inspector of the Plant Protection and Quarantine Programs. If any part of the treatment is conducted in the country of origin, the organization requesting the service must enter into a formal agreement with this Plant Protection and Quarantine Programs to secure the services of an inspector.

(d) *Costs.* All costs of treatment, required safeguards, and supervision of treatments by the inspector shall be borne by the owner of the fruit, or his representative, when the treatment is given in foreign countries. There is no charge for supervision of treatments given at authorized U.S. ports of entry during regularly scheduled hours of duty.

(e) *Department not responsible for damage.* The treatment prescribed in paragraph (b) of this section is judged from limited experimental tests to be safe for use with fruits likely to be infested with the Mediterranean fruit fly or the oriental fruit fly, or with the grape vine moth or other pests of grapes or other fruits from Chile. However, the Department assumes no responsibility for any damage sustained through or in the course of the treatment. There has not been an opportunity to test the treatment on all varieties of fruits that may be offered for entry from various countries. It is recommended that the phytotoxicity of the treatment to the variety to be shipped shall be tested by exporters in the country of origin or by means of test shipments sent to this country.

[35 FR 283, Jan. 8, 1970, as amended at 36 FR 24917, Dec. 24, 1971. Redesignated at 50 FR 9788, Mar. 12, 1985; 50 FR 10750, Mar. 18, 1985]

§ 319.56-2o Administrative instructions prescribing method of treatment of avocados for the Mediterranean fruit fly, the melon fly, and the oriental fruit fly.

Fumigation with methyl bromide at normal atmospheric pressure followed by refrigerated storage in accordance with the procedures described in this section is effective against the Mediterranean fruit fly, the melon fly, and the oriental fruit fly in avocados but is not effective against other dangerous pests of this fruit. Accordingly, this treatment will be approved for treatment of avocados in connection with the issuance of permits under § 319.56-4 for the importation of avocados from any country when it is determined that the pest risk involved in the proposed importation is such that it will be eliminated by this treatment.

(a) *Ports of entry.* Avocados offered for entry will be regulated by one of the following provisions:

(1) Avocados certified as having received the combined fumigation-refrigeration treatment in the country of origin immediately prior to shipment are enterable at all ports under permit.

(2) Avocados certified as having been fumigated in the country of origin and which are receiving the refrigeration storage on board approved transiting

vessels are enterable at the U.S. ports named in the permit upon completion of the refrigerated storage period.

(3) Avocados which have not been treated are enterable at the ports named in the permit for treatment upon arrival.

(b) *Approved treatment.* The phases of the combination treatment shall consist of fumigation and aeration; and a precooling and refrigeration period.

(1) The fumigant shall be methyl bromide applied at normal atmospheric pressure in an enclosure which has been approved for that purpose by the Plant Protection and Quarantine Programs. The dosage shall be two pounds per 1,000 cubic feet for 2½ hours at 70° F. or above. At the conclusion of the 2½-hour exposure period, the avocados shall be aerated for minimum of 30 minutes. Avocados to be fumigated shall be restricted to fruit at the mature green stage of development and be arranged in ventilated wooden boxes, without packing material or wrappings. Fumigation chambers should not be loaded to more than two-thirds of their capacity. Tarpaulin enclosures should not be loaded to more than 80 percent of their capacity. The 2½-hour exposure period shall begin when all the fumigant has been volatilized and introduced into the enclosure. Forced circulation above and below the load, and between individual containers, shall be provided as soon as the avocados are loaded in the chamber and shall continue during the full period of fumigation and until the avocados have been removed to a well ventilated location.

(2) The refrigerated phase of the treatment shall consist of refrigeration for 7 days at 45° F. or below. Cooling of the fruit must begin within 24 hours following the fumigation. The refrigerated storage shall consist of 7 days at fruit pulp temperature of 45° F. or below. The time required to cool the pulp temperature to 45° F. or below may be included in the 7-day period provided the cooling is accomplished in 24 hours or less. Temperature sensors inserted in the avocados will determine when pulp temperatures have reached 45° F. or below.

(c) *Supervision of treatments and subsequent handling.* The treatment approved in this section and the subsequent handling of the avocados so treated must be conducted under the supervision of an Inspector of the Plant Protection and Quarantine Programs. If any part of the treatment is conducted in the country of origin, the organization requesting the service must enter into a formal agreement with this Plant Protection and Quarantine Programs to secure the services of an inspector.

(d) *Costs.* All costs of treatment, required safeguards, and supervision of treatments by the inspector shall be borne by the owner of the avocados or his representative when the treatment is given in foreign countries. There is no charge for supervision of treatments given at authorized U.S. ports of entry during regularly scheduled hours of duty.

(e) *Department not responsible for damage.* The treatment prescribed in paragraph (b) of this section is judged from experimental tests to be safe for use on avocados at the mature green stage of development. However, the Department of Agriculture assumes no responsibility for any damage sustained through or in the course of treatment. There has not been an opportunity to test the treatment on all varieties of avocados that may be offered for entry from various countries. It is recommended that the phytotoxicity of the treatment to the variety to be shipped shall be tested by exporters in the country of origin or by means of test shipments sent to this country.

[35 FR 2503, Feb. 4, 1970, as amended at 36 FR 24917, Dec. 24, 1971. Redesignated at 50 FR 9788, Mar. 12, 1985; 50 FR 10750, Mar. 18, 1985]

§ 319.56-2p Administrative instructions prescribing treatment and relieving restrictions regarding importation of okra from Mexico, the West Indies, and certain countries in South America.

(a) *Conditions for issuance of permits.* (1) Under § 319.56-2, okra may be imported under permit and in compliance with the regulations in this subpart, from Mexico, the West Indies, Colombia, Ecuador, Peru, and

Venezuela and any other South American country specified in the permit, upon presentation of evidence that it has been treated in accordance with the procedure prescribed in paragraph (b) of this section.

(2) Further, it is hereby determined, pursuant to § 319.56, that existing conditions as to the pest risk involved in the importation of okra from such countries make it safe to make less stringent the restrictions contained in § 319.56-2, by allowing the importation of okra, as provided in paragraphs (c), (d), and (e) of this section without routinely requiring such treatment.

(3) As used in this section—(i) "West Indies" means the foreign islands lying between North and South America, the Caribbean Sea, and the Atlantic Ocean, divided into the Bahamas, the Greater Antilles, and the Lesser Antilles (including the Leeward Islands, the Windward Islands, and the islands north of Venezuela); and (ii) "Inspector" means an inspector of the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service of the Department of Agriculture.

(b) *Authorized treatment procedure.* (1) The treatment shall consist of fumigation with methyl bromide at normal atmospheric pressure, under supervision, in a fumigation chamber which has been approved for that purpose, as prescribed in this section. This treatment is specific for the pink bollworm (*Pectinophoragossypiella* (Saund.)) which is known to occur in Mexico, the West Indies, and South America. Under certain cultural conditions this pest will infest okra.

(2) *Approval of fumigation chambers.* (i) Fumigation chambers in the United States or elsewhere will be approved only if they are properly constructed and adequately equipped to handle and treat okra. Within the United States the chambers must be located within the practicable supervisory range of inspectors of the Plant Protection and Quarantine Programs stationed at the ports of entry authorized in permits for the importation of okra. Approval of fumigation chambers outside the United States will depend upon the availability of qualified inspectors for assignment to supervise the treatment and posttreatment handling of okra.

(ii) Determination of eligibility for approval under this section of fumigation plants will be made by an inspector of the Plant Protection and Quarantine Programs.

(3) *Fumigation schedule.* Such fumigation shall be in accordance with the following fumigation schedule:

Temperature (° F.)	Dosage (pounds of methyl bromide per 1,000 cubic feet)	Exposure period (hours)
90–96	1.0	2
80–89	1.5	2
70–79	2.0	2
60–69	2.5	2
50–59	3.0	2
40–49	3.5	2

(4) *Fumigation procedure.* Okra to be fumigated may be packed in slatted crates or other gas-permeable containers. The fumigation chamber shall not be loaded to more than two-thirds of its capacity. The containers may be stacked one on top of another, but a 3- to 4-inch space must be provided between all containers throughout the load. Good air circulation above and below the load shall be provided as soon as the okra is loaded and must be continued during the full period of fumigation and until the okra has been removed to a well-ventilated location. Strong blasts of air should not be directed against the okra. Fumigation at temperatures in excess of 90° F. may result in injury to okra and should be avoided if possible. Past experience indicates that injury may also result from excess moisture, such as residual moisture from harvesting when dew-covered.

(5) *Supervision of fumigation*—(i) *Other than interior of Mexico.* Inspectors will supervise the fumigation of okra at approved fumigation plants in locations other than those in the interior of Mexico and will specify safeguards in specific cases for the packing, other handling and transportation of the okra before and subsequent to fumigation, if, in the opinion of the inspector, this is necessary to assure

that there will be no risk of introducing plant pests into the United States associated with the treatment and importation of the okra. The final release of the okra for entry into the United States will be conditioned upon compliance with the specified safeguards. Such supervision at plants within the United States will be carried on as a part of normal port inspection activities.

(ii) *Interior of Mexico.* Inspectors will supervise the fumigation of okra at approved fumigation plants in the interior of Mexico and will prescribe safeguards in specific cases for the packing and other handling of the okra at the treating plant and the transportation of the okra from the time it leaves the treating plant until it reaches the U.S. port of entry, if in the opinion of the inspector this is necessary to assure that there will be no risk of introducing plant pests into the United States associated with the treatment and importation of the okra. The final release of the okra for entry into the United States will be conditioned upon compliance with the prescribed safeguards.

(6) *Ports of entry.* Okra required to be treated as a condition of importation will be limited to entry at New Orleans or such other South Atlantic or gulf ports with approved treatment facilities as may be named in the permit, except that, in addition, Mexican okra required to be treated as a condition of importation will be enterable at Mexican Border ports named in the permit.

(7) *Costs.* Persons desiring to import okra required to be treated under this section must make advance arrangements for approval of the fumigation plant and for supervision of the fumigation by an authorized inspector. All costs of constructing, maintaining, and operating fumigation plants and facilities, and carrying out specified pretreatment and posttreatment safeguards, and all additional costs to the Department arising from supervision under this section, by an inspector away from his regular place of official duty or outside of his regular hours of official duty (including as appropriate, base salary, overtime and holiday pay, travel subsistence, transportation, employee benefits, and incidental expenses) shall be borne by the owner of the okra or his representative. Where normal inspection activities preclude the furnishing of supervision during regularly assigned hours of duty, supervision will be furnished on a reimbursable basis. The owner of the okra or his representative must furnish the Deputy Administrator of the Plant Protection and Quarantine Programs with acceptable assurances that he will provide funds to the U.S. Department of Agriculture to cover all costs of supervision, in accordance with §§ 354.1 and 354.2 of this chapter and this paragraph.

(8) *Department not responsible for damage.* While the prescribed treatment is judged from experimental tests to be safe for use with okra, the Department assumes no responsibility for any damage sustained through or in the course of treatment or because of pretreatment or posttreatment safeguards. There has not been an opportunity to test these treatments under all conditions or on all okra varieties or on okra from all areas involved.

(c) *Importations of okra without treatment authorized from Mexico under the following conditions.* (1) Okra produced in Mexico may enter the United States at any time during the year, under permit and subject to inspection at the port of entry, but without fumigation except as provided in paragraph (c)(6) of this section, if destined to an area comprised of the States of Arizona, New Mexico, Oklahoma, and Texas, which is the generally infested pink bollworm regulated area designated in § 301.52–2a of this chapter.

(2) Okra produced in Mexico may enter the United States during the period December 1 to May 15, inclusive, under permit and subject to inspection at the port of entry, but without fumigation except as provided in paragraph (c)(6) of this section, if destined to any part of the United States except California.

(3) Okra produced in Mexico may enter the United States during the period January 1 to March 15, inclusive, under permit and subject to port of entry inspection, but without fumigation except as provided in para-

graph (c)(6) of this section, if destined to California. (Okra produced in Mexico and destined to California is subject to permit, port of entry inspection and fumigation requirements if it is to enter the United States during the period March 16 to December 31, inclusive.)

(4) Okra produced in Mexico may enter the United States during the period May 16 to November 30, inclusive, under permit and subject to port of entry inspection, but without fumigation except as provided in paragraph (c)(6) of this section, if destined to Alaska, Colorado, Connecticut, Delaware, Hawaii, Idaho, Indiana, Iowa, Kansas, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Dakota, Utah, Vermont, Washington, West Virginia, Wisconsin, or Wyoming, or the District of Columbia, or any part of Illinois, Kentucky, Missouri, or Virginia, north of the 38th parallel.

(5) Okra produced in Mexico may enter the United States during the period May 16 to November 30, inclusive, under permit and subject to port of entry inspection and fumigation requirements if destined to Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, Nevada, North Carolina, South Carolina, or Tennessee or any part of Illinois, Kentucky, Missouri, or Virginia, south of the 38th parallel.

(6) Okra produced in Mexico is subject to fumigation requirements if any pests of quarantine significance, in the judgment of the inspector, are found upon port of entry inspection.

(d) *Importation of okra without treatment from the West Indies and certain countries in South America.* (1) Okra produced in the West Indies, Colombia, Ecuador, Peru, Venezuela, or other South American country, designated in accordance with § 319.56-2 in a permit to import okra, may enter the United States through any North Atlantic port with approved treatment facilities, under permit and subject to inspection at the port of entry but without fumigation except as provided in paragraph (d)(2) of this section if destined to: Alaska, Colorado, Connecticut, Delaware, Hawaii, Idaho, Indiana, Iowa, Kansas, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Dakota, Utah, Vermont, Washington, West Virginia, Wisconsin, or Wyoming, or the District of Columbia, or any part of Illinois, Kentucky, Missouri, or Virginia, north of the 38th parallel.

(2) Okra subject to paragraph (d)(1) of this section is subject to fumigation requirements if any plant pests of quarantine significance, in the judgment of the inspector, other than pink bollworm are found upon port of entry inspection or the shipment is destined to a place other than one of those mentioned above.

(e) *Importation of okra without treatment from Andros Island of the Bahamas; and okra without treatment from the West Indies for importation into the American Virgin Islands.* Okra produced in Andros Island, Bahamas, may enter the United States under permit through any port named in the permit, without fumigation but subject to inspection at the port of entry. Okra produced in the West Indies may enter the American Virgin Islands without fumigation but subject to inspection at the port of entry. Okra within this paragraph shall be subject to fumigation requirements if any plant pests of quarantine significance, in the judgment of the inspector, are found upon port of entry inspection.

[35 FR 18033, Nov. 25, 1970, as amended at 36 FR 24917, Dec. 24, 1971. Redesignated at 50 FR 9788, Mar. 12, 1985; 50 FR 10750, Mar. 18, 1985]

§ 319.56–2q Administrative instructions; conditions for importation of grapefruits, oranges, and tangerines from Mexico.

(a) *Approved treatment.* Fumigation with methyl bromide at normal atmospheric pressure in approved chambers, in accordance with the following procedure, is hereby approved as a condition of entry under permit, through ports specified in the permit, for lots of grapefruits, oranges, and tangerines grown in Mexico. This treatment is specific for fruit flies of the genus *Anastrepha* known to exist in Mexico.

(1) A lot of grapefruits, oranges, or tangerines grown in Mexico shall be eligible for fumigation if a representative sample of fruit, selected from the lot, has been cut, inspected, and not found to indicate a level of infestation of fruit flies of 0.5% or above for the lot.

(2) Fumigation shall be in an approved fumigation chamber at normal atmospheric pressure as follows:

Temperature of fruit pulp	Methyl bromide dosage (ounces per 1,000 cubic feet or grams per cubic meter)	Exposure period (hours)
70 °F to 85 °F (21 °C–29°C)....	40	2.0

The chamber load shall not exceed 80 percent of the chamber's volume. The fumigation chambers shall be approved for use if found by an inspector to be adequate to meet the requirements of this treatment.

(3) The fumigation shall be conducted under the supervision of an inspector. The unloading of the fruit from the means of conveyance, delivery of the fruit to an approved fumigation chamber, the fumigation of the fruit, and any other handling of the fruit before or after fumigation shall be in accordance with safeguards determined by an inspector to be necessary to prevent the introduction into the United States of fruit flies.

(b) *Costs.* All costs of treatment and required safeguards and supervision, other than costs for the services of the supervising inspector during regularly assigned hours of duty and at the usual place of duty, shall be borne by the owner of the fruit or the owner's representative.

(c) *Department not responsible for damage.* Damage may be sustained on oranges and tangerines, and damage to all fruits may result from inexactness or carelessness in using the approved treatment. The Department does not accept responsibility for any damage sustained through or in the course of treatment, or because of posttreatment safeguards.

(d) *Ports of entry.* Grapefruits, oranges, and tangerines which are accompanied by a valid certificate that has been issued by an inspector and that represents that they have been treated in Mexico in accordance with the treatment provisions in this section may enter the United States only at a port of entry listed in § 319.37-14(b) of this chapter specified in the import permit. Grapefruits, oranges, and tangerines which are to be treated in the United States may enter the United States only at a port of entry listed in § 319.37-14(b) of this chapter and specified in the import permit, except that they may not enter, stop at, or pass through ports south of Baltimore, Maryland, or in California.

(Secs. 8 and 9, 37 Stat. 318, as amended (7 U.S.C. 161, 162); secs. 105, 106, 71 Stat. 32, 33 (7 U.S.C. 150dd, 150ee); 7 CFR 2.17, 2.51, 371.2(c))

[49 FR 39039, Oct. 3, 1984, and 50 FR 14691, Apr. 15, 1985. Redesignated at 50 FR 9788, Mar. 12, 1985]

§ 319.56–3 Applications for permits for importation of fruits and vegetables.

(a) Persons contemplating the importation of fruits or vegetables the entry of which is authorized in the regulations in this subpart shall first make application to the Plant Protection and Quarantine Programs for a permit, stating in the application the country or locality of origin of the fruits or vegetables, the port of first arrival, and the name and address of the importer in the United States to whom the permit should be sent.

(b) Applications for permits should be made in advance of the proposed shipments; but if, through no fault of the importer, a shipment should arrive before a permit is received, the importation will be held in customs custody at the port of first arrival, at the risk and expense of the importer, for a period not exceeding 20 days pending the receipt of the permit.

(c) Application may be made by telegraph, in which case the information required above must be given.

(d) A separate permit must be secured for shipments from each country and for each port of first arrival in the United States.

(Approved by the Office of Management and Budget under control number 0579-0049)

(44 U.S.C. 35)

[24 FR 10788, Dec. 29, 1959, as amended at 48 FR 57466, Dec. 30, 1983]

§ 319.56-4 Issuance of permits.

Upon receipt of an application and upon approval by an inspector a permit will be issued specifying the conditions of entry and the port of entry to carry out the purposes of this subpart, and a copy will be supplied to the importer.

§ 319.56-5 Notice of arrival by permittee.

(a) Immediately upon the arrival of fruits or vegetables, from the countries specified in § 319.56, at the port of first arrival, the permittee or his agent shall submit a notice, in duplicate, to the Plant Protection and Quarantine Programs, through the United States Collector of Customs, or, in the case of Guam, through the Customs officer of the Government of Guam, on forms provided for that purpose, stating the number of the permit; the kinds of fruits or vegetables; the quantity or the number of crates or other containers included in the shipment; the country or locality where the fruits or vegetables were grown; the date of arrival; the name of the vessel, the name and the number, if any, of the dock where the fruits or vegetables are to be unloaded, and the name of the importer or broker at the port of first arrival, or, if shipped by rail, the name of the railroad, the car numbers, and the terminal where the fruits or vegetables are to be unloaded.

(b) Permits may be revoked and other permits refused if the permittee or his agent fails to submit the notice of arrival or gives a false notice or in any other way violates the quarantine.

(Approved by the Office of Management and Budget under control number 0579-0049)

(44 U.S.C. 35)

[24 FR 10788, Dec. 29, 1959, as amended at 48 FR 57466, Dec. 30, 1983]

§ 319.56-6 Inspection and disinfection of importations of fruits and vegetables.

(a) All importations of fruits or vegetables shall be subject, as a condition of entry, to such inspection or disinfection, or both, at the port of first arrival, as shall be required by the inspector of the Department of Agriculture, and shall be subject to reinspection at destination at the option of said Department.

(b) Should any shipment of fruits or vegetables be found to be so infested with fruit flies or other dangerous pests that, in the judgment of the inspector of the Department of Agriculture, it cannot be cleaned by disinfection or treatment, or to contain leaves, twigs, or other portions of plants as packing or otherwise, the entire shipment may be refused entry.

(c) No crate, box, hamper, or other container of fruits or vegetables, or fruits and vegetables in bulk, shall be removed from the port of first arrival unless and until a written notice is given to the collector of customs by the inspector of the United States Department of Agriculture that the products have been inspected and found to be free from infestation and from plants or portions of plants used as packing or otherwise: *Provided*, That the requirements under the regulations in this subpart with respect to the entry of foreign fruits and vegetables into any State for local consumption shall not be a bar to the enforcement of such additional safeguards as may be deemed necessary by the officials of such States.

(d) All charges for storage, cartage, and labor incident to inspection and disinfection, other than the services of the inspector, shall be paid by the importer.

§ 319.56-7 Inspection of baggage and cargo on the dock.

Inspectors of the United States Department of Agriculture are authorized to cooperate with the customs inspectors in the examination of all baggage or other personal belongings of passengers or members of crews of vessels or other carriers whenever such examination is deemed necessary for the purpose of enforcing the provisions of § 319.56 with respect to the entry of any prohibited or restricted fruits or vegetables or plants or portions of plants which may be contained in the baggage or other belongings of such persons.

§ 319.56-8 Territorial applicability.

The regulations in this subpart shall apply with respect to importations into the continental United States, Guam, Hawaii, Puerto Rico, and the Virgin Islands of the United States.

Subpart—Wheat Diseases

AUTHORITY: Secs. 105, 107, 71 Stat. 32 and 34, as amended; 37 Stat. 854; secs. 7 and 9, 37 Stat. 317 and 318, as amended; sec. 10, 45 Stat. 468 (7 U.S.C. 150dd, 150ff, 155, 160, 162, and 164a); 37 FR 28464, 28477, as amended; 45 FR 8564, 8565.

§ 319.59 Prohibitions on importation; disposal of articles refused importation.

(a) Pursuant to section 7 of the Plant Quarantine Act (7 U.S.C. 160) the Secretary has determined that, in order to prevent the introduction into the United States from any foreign country or locality of foreign strains of flag smut or Karnal bunt, it is necessary, except as provided in § 319.59-2(b) of this subpart, to prohibit the importation into the United States of certain articles from certain foreign countries and localities. Accordingly, no person shall import or offer for entry into the United States any article designated in § 319.59-2(a) of this subpart as a prohibited article, except as otherwise provided in § 319.59-2(b) of this subpart.

(b) Any article refused importation in accordance with the requirements of this subpart shall be promptly removed from the United States or abandoned by the importer for destruction, and pending such action shall be subject to the immediate application of such safeguards against escape of injurious plant diseases (including foreign strains of flag smut) and Karnal bunt, injurious insect pests and other plant pests as an inspector determines necessary to prevent the introduction into the United States of such diseases or pests. If such article is not promptly safeguarded, removed from the United States, or abandoned for destruction by the importer, it may be seized, destroyed, or otherwise disposed of in accordance with section 10 of the Plant Quarantine Act (7 U.S.C. 164a) and sections 105 and 107 of the Federal Plant Pest Act (7 U.S.C. 150dd, 150ff).

[46 FR 54320, Nov. 2, 1981, as amended at 48 FR 46735 Oct. 14, 1983; 49 FR 24877, June 18, 1984]

§ 319.59-1 Definitions.

Terms used in the singular form in this subpart shall be construed as the plural, and vice versa, as the case may demand. The following terms, when used in this subpart, shall be construed, respectively, to mean:

Deputy Administrator. The Deputy Administrator of Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or any other officer or employee of said Service to whom authority to act in his/her stead has been or may hereafter be delegated.

Disease. The term, in addition to its common meaning, includes a disease agent which incites a disease.

Foreign strains of flag smut. Plant diseases caused by foreign strains of highly infective fungi, *Urocystis agropyri* (Preuss) Schroet., which attack wheat and substantially reduce its yield, and which are new to or not widely prevalent or distributed within and throughout the United States.

From. An article is considered to be "from" any country or locality in which it was grown.

Inspector. Any employee of Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or other person, authorized by the Deputy Administrator in accordance with law to enforce the provisions of the regulations in this subpart.

Karnal bunt. A plant disease caused by a highly infectious plant pathogenic smut fungus, *Tilletia inidica* Mitra, [Neovossia indica (Mitra) Manakur], which attacks wheat and substantially reduces its yield and substantially lowers the quality of the wheat grain, and which is new to or not widely prevalent or distributed within and throughout the United States.

Person. An individual, corporation, company, society, or association.

Plant Protection and Quarantine. The organizational unit within the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, delegated responsibility for enforcing provisions of the Plant Quarantine Act, the Federal Plant Pest Act, and related legislation, and regulations promulgated thereunder.

Prohibited article. Any class of seed, plant, or other plant product specified as prohibited articles in § 319.59-2(a) or (b).

Secretary. The Secretary of Agriculture, or any other officer or employee of the Department of Agriculture to whom authority to act in his/her stead has been or may hereafter be delegated.

Spp. (species). All species, clones, cultivars, strains, varieties, and hybrids, of a genus.

United States. The States, District of Columbia, American Samoa, Northern Mariana Islands, Puerto Rico, and the Virgin Islands of the United States.

[46 FR 54320, Nov. 2, 1981, as amended at 48 FR 46735, Oct. 14, 1983; 49 FR 24877, June 18, 1984]

§ 319.59-2 Prohibited articles.

(a) The articles listed in paragraph (a)(1) of this section from the countries and localities listed in paragraph (a)(2) of this section are prohibited articles because of foreign strains of flag smut and are prohibited from being imported or offered for entry into the United States except as provided in § 319.59-2(b) of this subpart.

(1)(i) Seeds, plants, and straw (other than straw, with or without heads and which have been processed or manufactured for use indoors, such as for decorative purposes or for use as toys), chaff, and products of the milling process (i.e., bran, shorts, thistle sharps, and pollards) other than flour of *Triticums* spp. (wheat) or of *Aegilops* spp. (barb goatgrass, goatgrass).

(ii) Seeds of *melilotus indica* (annual yellow sweetclover) and seeds of any other field crops that have been separated from wheat during the screening process.

(2) Afghanistan, Algeria, Australia, Bangladesh, Bulgaria, Chile, People's Republic of China, Cyprus, Egypt, Falkland Islands, Greece, Guatemala, Hungary, India, Iran, Iraq, Israel, Italy, Japan, Korea, Libya, Morocco, Nepal, Oman, Pakistan, Portugal, Romania, Spain, Tanzania, Tunisia, Turkey, Republic of South Africa, Union of Soviet Socialist Republics, and Venezuela.

(b) The articles listed in paragraph (b)(1) of this section from the countries and locations listed in paragraph (b)(2) of this section are prohibited articles because of Karnal bunt:

(1) Seeds, plants, straw (other than straw without heads and which have been processed or manufactured into articles such as decorative wall hangings, clothing or toys), chaff, and products of the milling process (i.e., bran, shorts, thistle sharps, and pollards) other than flour of *Triticum* spp. (wheat).

(2) Afghanistan, India, Iraq, Mexico and Pakistan.

(c) Any article listed as a prohibited article in paragraph (a) or (b) of this section may be imported or offered for entry into the United States if:

(1) Imported by the United States Department of Agriculture for experimental or scientific purposes;

(2) Imported at the Plant Germplasm Quarantine Center, Building 320, Beltsville Agricultural Center East, Beltsville, MD 20705 or at any port of entry with an asterisk listed in 7 CFR 319.37-14(b).

(3) Imported pursuant to a Departmental permit issued for such article and kept on file at the Plant Germplasm Quarantine Center;

(4) Imported under conditions specified on the Departmental permit and found by the Deputy Administrator to be adequate to prevent the introduction into the United States of tree, plant, or fruit diseases (including foreign strains of flag smut), injurious insects, and other plant pests, i.e., conditions of treatment, processing, growing, shipment, disposal; and

(5) Imported with a Departmental tag or label securely attached to the outside of the container containing the article or securely attached to the article itself if not in a container, and

with such tag or label bearing a Departmental permit number corresponding to the number of the Departmental permit issued for such article.

[46 FR 54320, Nov. 2, 1981, as amended at 48 FR 46735 Oct. 14, 1983; 49 FR 24877, June 18, 1984]

Subpart—Packing Materials

QUARANTINE

§ 319.69 Notice of quarantine.

By virtue of the act of August 20, 1912 (37 Stat. 315; 7 U.S.C. 151-167), the public hearing required thereby having been duly held, notice is hereby given as follows:

(a) On and after July 1, 1933, the following plants and plant products, when used as packing materials, are prohibited entry into the United States from the countries and localities named:

(1) Rice straw, hulls, and chaff; from all countries.

(2) Corn and allied plants (maize, sorghum, broomcorn, Sudan grass, napier grass, jobs-tears, teosinte, Polytoca, Sclerachne, Chionachne); all parts, from all countries except Mexico, and the countries of Central America, the West Indies, and South America.

(3) Cotton and cotton products (lint, waste, seed cotton, cottonseed, and cottonseed hulls); from all countries.

(4) Sugarcane; all parts of the plant including bagasse, from all countries.

(5) Bamboo; leaves and small shoots, from all countries.

(6) Leaves of plants; from all countries.

(7) Forest litter; from all countries.

(8) Soil containing an appreciable admixture of vegetable matter, from all countries, except such types of soil or earth as are authorized as safe for packing by the rules and regulations promulgated supplemental to this quarantine.

Exceptions to the above prohibitions may be authorized in the case of specific materials which have been so prepared, manufactured, or processed that in the judgment of the inspector no pest risk is involved in their entry.

(b) On and after June 8, 1953, the following plants and plant products when used as packing materials will be permitted entry into the United States from the countries and localities designated below only in accordance with the regulations supplemental to this quarantine:

(1) Cereal straw, hulls, and chaff (such as oats, barley, and rye), from all countries, except rice straw, hulls, and chaff which are prohibited importation from all countries by paragraph (a) of this section, and except wheat straw, hulls, and chaff which are restricted importation by § 319.59 from Aden Protectorate, Afghanistan, Australia, Bulgaria, Caucasus (including but not limited to Azerbaidzhan, South Russia, and Transcaucasia), Chile, China, Cyprus, Egypt, Greece, India, Iran, Iraq, Israel, Italy, Japan, Oman, Pakistan, Palestine, Portugal, Saudi Arabia, Sinai Peninsula, Spain, Syria, Trans-Jordan, Tunisia, Turkestan, Turkey, Union of South Africa, and Yemen.

(2) Corn and allied plants (maize, sorghum, broomcorn, Sudan grass, napier grass, jobs-tears, teosinte, Polytoca, Sclerachne, Chionachne); all parts, from Mexico and the countries of Central America, the West Indies, and South America.

(3) Willow twigs; from Europe.

(4) Grasses and hay and similar indefinite dried or cured masses of grasses, weeds, and herbaceous plants; from all countries.

(5) Soil containing an appreciable admixture of vegetable matter, from all countries, which is authorized as safe for packing by the rules and regulations promulgated supplemental to this quarantine.

(c) However, whenever the Deputy Administrator of the Plant Protection and Quarantine Programs shall find that existing conditions as to pet risk involved in the movement of the articles to which the regulations supplemental hereto apply, make it safe to modify by making less stringent, the restrictions contained in any of such regulations, he shall publish such findings in administrative instructions, specifying the manner in which the regulations shall be made less stringent, whereupon such modification shall become effective; or he may, when the public interests will permit, with respect to the importation of such articles into Guam, upon request in specific cases, authorize such importation under conditions, specified in the permit to carry out the purposes of this subpart, that are less stringent than those contained in the regulations.

(d) This quarantine shall leave in full force and effect all other quarantines and orders.

(e) As used in this subpart, unless the context otherwise requires, the term "United States" means the States, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands of the United States.

[24 FR 10788, Dec. 29, 1959, as amended at 26 FR 9333, Oct. 4, 1961; 36 FR 24917, Dec. 24, 1971]

§ 319.69a Administrative instructions and interpretation relating to the entry into Guam of plant materials specified in § 319.69.

(a) Plants and products designated in § 319.69(a) (1), (3), (4), and (5) and (b) (1), (3), and (4) as prohibited or restricted entry into the United States from the countries and localities named may be imported into Guam as packing materials without prohibition or restriction under this subpart. Inspection of such importations may be made under the general authority of § 330.105(a) of this chapter. If an importation is found infected, infested, or contaminated with any plant pest and is not subject to disposal under this part, disposition may be made in accordance with § 330.106 of this chapter.

(b) Corn and allied plants listed in § 319.69(a)(2) may be imported into Guam subject to the requirements of §§ 319.69-2, 319.69-3, and 319.69-4.

(c) Under § 319.69(a) (6) and (7), coconut fronds and other parts of the coconut trees are prohibited entry into Guam as packing materials except as permitted in § 319.37-16a.

RULES AND REGULATIONS

§ 319.69-1 Definitions.

(a) *Packing materials.* The expression "packing material", as used in § 319.69, includes any of the plants or plant products enumerated, when these are associated with or accompany any commodity or shipment to serve for filling, wrapping, ties, lining, mats, moisture retention, protection, or for any other purpose; and the word "packing", as used in the expression "packing materials", shall include the presence of such materials within, in contact with, or accompanying such commodity or shipment.[1]

(b) *Soil containing vegetable matter.* Soil containing an appreciable admixture of vegetable matter, here brought under quarantine only because its content of decaying vegetation or plant remains carries a definite pest risk, is to be distinguished from soil of purely mineral or earthy composition, which is not covered by this quarantine.

(c) *Inspector.* An inspector of the United States Department of Agriculture.

§ 319.69-2 Freedom from pests.

All packing materials allowed entry under restriction shall be free from injurious insects and plant diseases.

§ 319.69-3 Entry inspection.

All packing materials shall be subject to inspection at time of entry.

§ 319.69-4 Disposition of materials found in violation.

If the inspector shall find packing materials associated with or accompanying any commodity or shipment being imported, or to have been imported, in violation of § 319.69 or of the regulations in this subpart or shall find them infested or infected with injurious insects or plant diseases, he may refuse entry to the shipment, or he may seize and destroy or otherwise dispose of such packing material, or he may require it to be replaced, or sterilized, or otherwise treated.

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[1] Since it is the packing materials themselves which constitute the danger and not the manner of use, it is intended that the definition shall include their presence within or accompanying a shipment regardless of their function or relation to a shipment or the character of the shipment.

§ 319.69-5 Types of soil authorized for packing.

The following types of soil or earth are authorized as safe for packing: (a) Peat, (b) peat moss, and (c) Osmunda fiber.

Subpart—Coffee

QUARANTINE

§ 319.73 Notice of quarantine.

Pursuant to sections 5, 7, and 9 of the Plant Quarantine Act of 1912, as amended, and section 106 of the Federal Plant Pest Act (7 U.S.C. 159, 160, 162, 150ee), and after the public hearing required thereunder, the Administrator of the Animal and Plant Health Inspection Service hereby determines that the unrestricted importation into Puerto Rico and Hawaii from all foreign countries and localities of (a) the seeds or beans of coffee which, previous to importation, have not been roasted to a degree which, in the judgment of an inspector of the Department of Agriculture, will have destroyed coffee borers in all stages, (b) coffee berries or fruits, (c) coffee plants and leaves, and (d) empty sacks previously used for unroasted coffee, may result in the entry into Puerto Rico and Hawaii of the coffee berry borer (Stephanoderes hampei Ferr. [S. coffeae Hgdn.]) and an injurious rust disease caused by the fungus Hemileia vastatrix B. and Br., and said Administrator hereby further determines, that, in order to prevent the introduction into Puerto Rico and Hawaii of said insect pest and coffee disease, which are new to and not heretofore widely prevalent or distributed within and throughout the United States, it is necessary to forbid the importation into Puerto Rico and Hawaii of the products and plants specified above, except as permitted in the regulations supplemental hereto. Hereafter, the products and plants specified above shall not be imported or offered for entry into Puerto Rico and Hawaii from any foreign country or locality except as permitted by said regulations. However, whenever the Deputy Administrator of the Plant Protection and Quarantine Programs shall find that existing conditions as to pest risk involved in the importation of one or more of the products to which this subpart applies, make it safe to modify, by making less stringent the restrictions contained in any such regulations, he shall publish such findings in administrative instructions, specifying the manner in which the regulations shall be made less stringent, whereupon such modification shall become effective; or he may, upon request in specific cases, when the public interests will permit, authorize such importation under conditions specified in the permit to carry out the purposes of this part that are less stringent than those contained in the regulations.

REGULATIONS

§ 319.73-1 Definitions.

For the purposes of the provisions in this subpart, unless the context otherwise requires, the following words shall be construed, respectively, to mean:

(a) *Deputy Administrator.* The Deputy Administrator of the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or any officer or employee of the Plant Protection and Quarantine Programs to whom authority has heretofore been delegated or may hereafter be delegated to act in his stead.

(b) *Inspector.* A properly identified employee of the U.S. Department of Agriculture or other person authorized by the Department to enforce the provisions of the Plant Quarantine Act and the Federal Plant Pest Act.

(c) *Plant Protection and Quarantine Programs.* The Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture.

[35 FR 14497, Sept. 16, 1970, as amended at 36 FR 24917, Dec. 24, 1971; 37 FR 10554, May 25, 1972]

§ 319.73-2 Products prohibited importation.

The seeds or beans of coffee which, previous to importation, have not been roasted to a degree which, in the judgment of an inspector, will have destroyed coffee borers in all stages; coffee berries or fruits; coffee plants and leaves; and empty sacks previously used for unroasted coffee; are prohibited importation into Puerto Rico or Hawaii, except as provided in § 319.73-3.

[35 FR 14497, Sept. 16, 1970]

§ 319.73-3 Conditions for transit movement of certain products through Puerto Rico or Hawaii.

(a) Transit shipments from any foreign country through Puerto Rico or Hawaii of samples of unroasted coffee seeds and beans in closed mail dispatches, destined to foreign countries or to destinations elsewhere in the United States in compliance with this subpart, will be allowed to proceed without action by the inspector. Other samples of unroasted coffee seeds or beans received by mail in the post offices in Puerto Rico or Hawaii shall be subject to inspection and safeguard action by the inspector, who shall require their immediate return to origin or immediate forwarding to a destination elsewhere in the United States in compliance with this subpart. Such return or onward movement shall be made in closed mail dispatches. If such immediate action is not possible the samples shall be destroyed.

(b) Samples of unroasted coffee seeds or beans coming to Puerto Rico or Hawaii as cargo and not unloaded in Puerto Rico or Hawaii will be allowed to proceed to a foreign destination or to a destination elsewhere in the United States in compliance with paragraph (a) of this section. If the samples are to be unloaded and transshipped in Puerto Rico or Hawaii, it shall be done immediately after the inspector ascertains that the samples are properly wrapped or packaged to prevent the escape of any plant pests that may be present during transit and, before transshipment the carrier shall rewrap or package the samples in such manner as the inspector may require if he deems such action is necessary to prevent the escape of any plant pests that may be present.

(c) Other mail, cargo, and baggage shipments of products covered by § 319.73-2, arriving in Puerto Rico or Hawaii shall not be unloaded or transshipped in Puerto Rico or Hawaii and shall be subject to the inspection and other applicable requirements of the Plant Safeguard Regulations (Part 352 of this chapter).

[35 FR 14497, Sept. 16, 1970]

§ 319.73-4 Costs.

All costs incident to the inspection handling, cleaning, safeguarding, treating, or other disposal of products or articles under this subpart, except for the services of an inspector during regularly assigned hours of duty and at the usual places of duty, shall be borne by the owner, or his agent, having responsible custody thereof.

[35 FR 14498, Sept. 16, 1970]

Subpart—Cut Flowers

QUARANTINE

§ 319.74 Notice of quarantine.

(a) The Secretary of Agriculture, having given the public hearing required by law and having determined the pest risk involved, forbids the importation of cut flowers into the United States from foreign countries, including those in Europe, Asia, Africa, Australia, South America, Central America, North America, and other foreign countries and islands (other than cut flowers produced in the Dominion of Canada, Labrador, Newfoundland, and the United States), except as provided in the regulations supplemental to this subpart.

(b) This subpart shall not be construed to modify provisions applicable to cut flowers included in special quarantine or other restrictive orders now in force or hereafter promulgated.

(c) As used in this section, the term "United States" means the continental United States, Guam, Hawaii, Puerto Rico, and the Virgin Islands of the United States.

RULES AND REGULATIONS

§ 319.74-1 Definitions.

For the purpose of the regulations in this subpart the following words, names, and terms shall be construed, respectively, to mean:

(a) *Cut flower.* The highly perishable commodity known in the commercial flower-producing industry as a cut flower, and being the severed portion of a plant, including the inflorescence, and any parts of the plant attached thereto, in a fresh state. This definition shall not include dried, bleached, dyed, or chemically treated decorative plant materials; filler or greenery, such as fern fronds and asparagus plumes, frequently packed with fresh cut flowers; nor to Christmas greenery, such as holly, mistletoe, and Christmas trees.

(b) *Inspector.* An employee of the United States Department of Agriculture authorized by the Secretary of Agriculture to enforce the provisions of the Plant Quarantine Act.

(c) *Permit.* A form of authorization to allow the importation of cut flowers in accordance with the regulations in this subpart. In the case of cut flowers imported in small quantities, this may be an oral authorization by the inspector at the port of entry.

§ 319.74-2 Regulated articles.

(a) All cut flowers imported into the United States from the foreign countries and islands designated in the quarantine are subject to the regulations in this subpart.

(b) Such types of cut flowers as may be determined by the Deputy Administrator of the Plant Protection and Quarantine Programs and designated by him in administrative instructions as involving special risk of introducing into the United States any new and potentially injurious insect or plant disease shall be admitted only under permit.

(c) Whenever, in the opinion of the Deputy Administrator of the Plant Protection and Quarantine Programs, a State, Territory or District of the United States covered by § 319.74 shall have taken action to suppress types of pests that may be imported with certain cut flowers, and shall have promulgated, when such action contributes to the suppressive program, a plant quarantine prohibiting the entry in interstate movement of specific kinds of cut flowers that might introduce such pests, and further shall have requested through the responsible official that the United States Department of Agriculture cooperate by restricting the importation from foreign countries named in this quarantine of such cut flowers into the State or Territory or District in question, importations thereof to said State or Territory or District may be denied by the Deputy Administrator of the Plant Protection and Quarantine Programs either through refusing approval of a permit or such other means as he may announce.

§ 319.74-2a Administrative instructions relative to the cut flower quarantine.

Pursuant to the authority conferred upon the Deputy Administrator of the Plant Protection and Quarantine Programs by § 319.74-2(b) (Notice of Quarantine No. 74), it has been determined that the following types of cut flowers involve special risk of introducing into the United States new and potentially injurious insects or plant diseases when imported into the United States from the foreign countries and localities designated in § 319.74:

Camellia—Camellia spp.
Gardenia, cape jasmine—Gardenia spp.
Rhododendron—Rhododendron spp. (including Azalea)
Rose—Rosa spp.
Lilac—Syringa spp.

Accordingly it is hereby required that the above types of cut flowers may be imported from the designated foreign countries and localities only under permits issued in accordance with the procedure authorized in §§ 319.74-3 to 319.74-5, inclusive.

§ 319.74-3 Conditions governing the entry of cut flowers.

(a) All cut flowers imported from the named foreign countries and localities, whether or not subject to permit requirements, shall be given such inspection and treatment at the port of entry as may be deemed necessary by the inspector. Cut flowers imported from any country or locality and found upon inspection to be infested with agromyzids (insects of the family Agromyzidae) shall be fumigated at the time of importation with methyl bromide in accordance with a procedure specified in paragraph (d) of this section, except that such fumigation shall not be required for cut flowers imported from Canada (including Labrador and Newfoundland) or Mexico because of the finding of agromyzids, and shall not be required for cut flowers of *Chrysanthemum* spp. imported from Colombia or the Dominican Republic because of the finding of agromyzids, when such agromyzids are identified by an inspector to be only agromyzids of the species *Liriomyza trifolii* (Burgess). Any cut flowers found upon inspection to be infested with injurious insects or infected with plant diseases, which cannot be eliminated by treatment, shall be denied entry. The importer will be given the option of abandoning for destruction such rejected cut flowers or immediately shipping them to a point outside the United States.

(b) Under circumstances which will in the judgment of the inspector eliminate pest risk, the inspector may orally authorize entry in small quantities of cut flowers that are subject to the permit requirements.

(c) Whenever, during the inspection of cut flowers imported in accordance with the regulations in this subpart, the inspector shall find them to be infested with an injurious insect or infected with an injurious plant disease, which can be eliminated by a method of treatment selected by him in accordance with administratively authorized procedures known to be effective under the conditions applied, he may prescribe as a condition of entry that such treatment be applied by the importer or his agent, under the supervision of the inspector. All costs for such treatment, except for the services of the inspector, shall be borne by the importer or his agent. Neither the Department of Agriculture nor the inspector shall be deemed responsible for any adverse effects of such treatment on the cut flowers so treated. In lieu of treatment the importer of infested or infected cut flowers shall be given the option of immediately shipping them to a point outside the United States or abandoning them for immediate destruction.

(d) Fumigation of cut flowers for agromyzids (insects of the family Agromyzidae) shall consist of fumigation with methyl bromide at normal atmospheric pressure in a chamber or under a tarpaulin in accordance with one of the following schedules:

1½ lbs. per 1000 cu. ft. for 2 hours at 80°-90°F.

(19 oz. concentration at first ½ hour)
(12 oz. concentration at 2 hours); or

2 lbs. per 1000 cu. ft. for 2 hours at 70°-79°F.

(24 oz. concentration at first ½ hour)
(16 oz. concentration at 2 hours); or

2½ lbs. per 1000 cu. ft. for 2 hours at 60°-69°F.

(30 oz. concentration at first ½ hour)
(20 oz. concentration at 2 hours); or

3 lbs. per 1000 cu. ft. for 2 hours at 50°-59°F.

(36 oz. concentration at first ½ hour)
(24 oz. concentration at 2 hours); or

3½ lbs. per 1000 cu. ft. for 2 hours at 40°-49°F.

(41 oz. concentration at first ½ hour)
(27 oz. concentration at 2 hours)

NOTE: There is a possibility that some cut flowers could be damaged by such fumigation.

(Secs. 5 and 9, 37 Stat. 316, 318, as amended, 7 U.S.C. 159, 162; 7 CFR 2.17, 2.51, and 371.2.; secs. 5 and 9, 37 Stat. 316, 318, as amended, 7 U. S. C. 159, 162; 7 CFR 2.17, 2.51, and 371.2(c))

[24 FR 10788, Dec. 29, 1959, as amended at 47 FR 38103, Aug. 30, 1982; 48 FR 16877, Apr. 20, 1983; 48 FR 20403, May 6, 1983; 49 FR 24988, June 19, 1984]

§ 319.74-4 Procedure for obtaining permits.

(a) Persons desiring to import cut flowers subject to the permit requirements of the regulations in this subpart (other than small quantities eligible for entry upon oral authorization) shall submit to the Plant Protection and Quarantine Programs an application[1] stating the exact designation of the cut flowers to be imported, the name and address of the exporter, the country where grown, the port of entry, the destination in the United States, and the name and address of the importer or agent in the United States to whom the permit should be sent.

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[1] Address applications to Permit Unit, PPQ, APHIS, Room 638, Federal Building, Hyattsville, Md. 20782. Form PPQ-587 may be used but a letter or telegram setting forth the required information will be accepted in lieu of an application on form PPQ-587.

(b) Application for permit should be made in advance of the proposed importation.

(c) Upon receipt and approval of such application by the Plant Protection and Quarantine Programs, a permit will be issued which will authorize the importation, specify the port of entry, and prescribe conditions that may be needed to safeguard against the entry of pests.

(Approved by the Office of Management and Budget under control number 0579-0049)

(44 U.S.C. 35)

[24 FR 10788, Dec. 29, 1959, as amended at 48 FR 57466, Dec. 30, 1983]

§ 319.74-5 Notice of arrival.

Immediately upon the arrival at a port of entry of a commercial shipment of cut flowers, the entry of which is permissible only under permit, the permittee shall submit to the Plant Protection and Quarantine Programs through the Collector of Customs, duplicate copies of a notice of arrival. A form is provided by the Plant Protection and Quarantine Programs for that purpose.

(Approved by the Office of Management and Budget under control number 0579-0049)

(44 U.S.C. 35)

[24 FR 10788, Dec. 29, 1959, as amended at 48 FR 57466, Dec. 30, 1983]

§ 319.74-6 Shipments for experimental or scientific purposes.

Cut flowers may be imported for experimental or scientific purposes by the United States Department of Agriculture upon such conditions and restrictions as the Deputy Administrator of the Plant Protection and Quarantine Programs may prescribe.

§ 319.74-7 Territorial applicability.

The regulations in this subpart shall apply with respect to importations into the continental United States, Guam, Hawaii, Puerto Rico and the Virgin Islands of the United States.

Subpart—Khapra Beetle

AUTHORITY: Secs. 5 and 9; 37 Stat. 316, 318; 7 U.S.C. 159, 162; secs. 105, 106, and 107; 71 Stat. 32-34; 7 U.S.C. 150dd, 150ee, 150ff; 37 FR 28464, 28477, as amended; 38 FR 19141.

§ 319.75 Restrictions on importation of restricted articles; disposal of articles refused importation.

(a) The Secretary has determined that in order to prevent the entry into the United States of khapra beetle (*Trogoderma granarium* Everts) it is necessary to restrict the importation of certain articles from foreign countries and localities. Accordingly, no person shall import any restricted article unless in conformity with all of the applicable restrictions in this subpart.

(b) Any article refused importation for noncompliance with the requirements of this subpart shall be promptly removed from the United States or abandoned by the importer, and pending such action shall be subject to the immediate application of such safeguards against escape of plant pests as the inspector determines necessary to prevent the introduction into the United States of plant pests. If such article is not promptly safeguarded, removed from the United States, or abandoned for destruction by the importer, it may be seized, destroyed, or otherwise disposed of in accordance with section 10 of the Plant Quarantine Act (7 U.S.C. 164a) and sections 105 and 107 of the Federal Plant Pest Act (7 U.S.C. 150dd, 150ff).

(c) A restricted article may be imported without complying with other restrictions under this subpart if:

(1) Imported by the U.S. Department of Agriculture for experimental or scientific purposes;

(2) Imported at the Plant Germplasm Quarantine Center, Building 320, Beltsville Agricultural Research Center East, Beltsville, MD 20705, or at a port of entry designated by an asterisk in § 319.37-14(b);

(3) Imported pursuant to a Departmental permit issued for such article and kept on file at the port of entry;

(4) Imported under conditions specified on the Departmental permit and found by the Deputy Administrator to be adequate to prevent the introduction into the United States of plant pests, i.e., conditions of treatment, processing, growing, shipment, disposal; and

(5) Imported with a Departmental tag or label securely attached to the outside of the container containing the article or securely attached to the article itself if not in a container, and with such tag or label bearing a Departmental permit number corresponding to the number of the Departmental permit issued for such article.

[46 FR 38334, July 27, 1981, and 47 FR 3082, Jan. 22, 1982, as amended at 47 FR 3085, Jan. 22, 1982]

§ 319.75-1 Definitions.

Terms used in the singular form in this subpart shall be construed as the plural, and vice-versa, as the case may demand. The following terms, when used in this subpart, shall be construed, respectively, to mean:

Deputy Administrator. The Deputy Administrator of the Animal and Plant Health Inspection Service, U.S. Department of Agriculture for Plant Protection and Quarantine, or any other officer or employee of the Department to whom authority to act in his/her stead has been or many hereafter be delegated.

From. An article is considered to be "from" any country or locality in which it originated or any country(ies) or locality(ies) in which it was offloaded prior to arrival in the United States.

Import. (importation, imported). To import or move into the United States.

Inspector. Any employee of Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or other person, authorized by the Deputy Administrator in accordance with law to enforce the provisions of the regulations in this subpart.

Nursery stock. All field-grown florist's stock, trees, shrubs, vines, cuttings, grafts, scions, buds, fruit pits, and other seeds of fruit and ornamental trees or shrubs, and other plants and plant products for propagation, except field, vegetable and flower seeds, bedding plants, and other herbaceous plants, bulbs, and roots.

Person. Any individual, corporation, company, society, association or other organized group.

Phytosanitary certificate of inspection. A document relating to a restricted article, which is issued by a plant protection official of the country in which the restricted article was grown, which is issued not more than 15 days prior to shipment of the restricted article from the country in which grown, which is addressed to the plant protection service of the United States (Plant Protection and Quarantine), which contains a description of the restricted article intended to be imported into the United States, which certifies that the article has been thoroughly inspected, is believed to be free from injurious plant diseases, injurious insect pests, and other plant pests, and is otherwise believed to be eligible for importation pursuant to the current phytosanitary laws and regulations of the United States.

Plant gum. Any of numerous colloidal polysaccharide substances of plant origin that are gelatinous when moist but harden on drying. Plant gums include but are not limited to acacia gum, guar gum, gum arabic, locust gum and tragacanth gum.

Plant pest. The egg, pupal, and larval stages as well as any other living stage of any insects, mites, nematodes, slugs, snails, protozoa, or other invertebrate animals, bacteria, fungi, other parasitic plants or reproductive parts thereof, viruses, or any organisms similar to or allied with any of the foregoing, or any infectious substances, which can directly or indirectly injure or cause disease or damage in any plants or parts thereof, or any processed, manufactured, or other products of plants.

Plant Protection and Quarantine. The organizational unit within the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, delegated responsibility for enforcing provisions of the Plant Quarantine Act, the Federal Plant Pest Act, and related legislation, and regulations promulgated thereunder.

Secretary. The Secretary of Agriculture, or any other officer or employee of the Department of Agriculture to whom authority to act in his/her stead has been or may hereafter be delegated.

United States. The States, District of Columbia, American Samoa, Guam, Northern Mariana Islands, Puerto Rico, and the Virgin Islands of the United States.

[46 FR 38334, July 27, 1981 and 47 FR 3082, Jan. 22, 1982, as amended at 47 FR 3085, Jan. 22, 1982; 49 FR 1876, Jan. 16, 1984; 50 FR 8704, 8706, Mar. 5, 1985]

§ 319.75–2 Restricted articles.[1]

(a) The following articles from the specified localities or countries are restricted articles:

(1) Seeds of the plant family Cucurbitaceae[2] if in shipments greater than two ounces, if not for propagation, and if from a country listed in paragraph (b) of this section;

(2) Brassware and wooden screens from Bombay, India;

(3) Goatskins, lambskins, and sheepskins (excluding goatskins, lambskins, and sheepskins which are fully tanned, blue-chromed, pickled in mineral acid, or salted and moist) from Sudan or India;

(4) Plant gums shipped as bulk cargo (in an unpackaged state) if from a country listed in paragraph (b) of this section;

(5) Used jute or burlap bagging not containing cargo if from a country listed in paragraph (b) of this section;[3]

(6) Used jute or burlap bagging from a country listed in paragraph (b) of this section that contains cargo, and the cargo in such bagging;[3]

(7) Used jute or burlap bagging from a country listed in paragraph (b) of this section that is used as a packing material (such as filler, wrapping, ties, lining, matting, moisture retention material, or protection material), and the cargo for which the used jute or burlap bagging is used as a packing material;[3] and

(8) Whole chilies (*Capsicum* spp.), whole red peppers (*Capsimcum* spp.), and cumin seeds (*Cuminum cyminum*) in new jute or burlap bags from Pakistan.

(b) Afghanistan, Algeria, Bangladesh, Burma, Cyprus, Egypt, India, Iran, Iraq, Israel, Libya, Mali, Mauritania, Morocco, Niger, Nigeria, Pakistan, Saudi Arabia, Senegal, Sri Lanka, Sudan, Syria, Tunisia, Turkey, and Upper Volta.

[50 FR 8706, Mar. 5, 1985]

§ 319.75–3 Permits.

(a) A restricted article may be imported only after issuance of a written permit by Plant Protection and Quarantine.

(b) An application for a written permit should be submitted to the Permit Unit, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Federal Building, Hyattsville, MD 20782, at least 60 days prior to arrival of the article at the port of entry. The completed application shall include the following information: [4]

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[1] The importation of restricted articles may be subject to prohibitions or restrictions under other provisions of 7 CFR Part 319. For example, fresh whole chilies (*Capsicum* spp.) and fresh whole red peppers (*Capsicum* spp.) from Pakistan are prohibited from being imported into the United States under the provisions of 7 CFR 319.56 *et seq.*

[2] Seeds of the plant family Cucurbitaceae include but are not limited to: Benincasa hispida (wax gourd), Citrullus Lanatus (watermelon) Cucumis melon (muskmelon, cantaloup, honeydew), Cumumis sativius (cucumber), Cucurbita pepo (pumkin, squashes, vegetable marrow), Lagenaria siceraria (calabash, gourd), Luffa cylindrica (dishcloth gourd), Mormoridica charantia (bitter melon), and Sechium edule (chayote).

[3] Such bagging may be subject to additional restrictions under the provisions in 7 CFR 319.8 *et seq.*

[4] Application forms are available without charge from the Permit Unit, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Federal Building, Hyattsville, MD 20782, or local offices which are listed in telephone directories.

(1) Name, address, and telephone number of the importer;

(2) Approximate quantity and kinds of articles intended to be imported;

(3) Country or locality of origin;

(4) Country(ies) or locality(ies) where it is intended to be off-loaded prior to arrival in the United States;

(5) Intended U.S. port of entry;

(6) Means of transportation; and

(7) Expected date of arrival.

(c) After receipt and review of the application by Plant Protection and Quarantine, a written permit indicating the applicable conditions in this subpart for importation under this subpart shall be issued for the importation of articles specified in the application if such articles described in the application appear to be eligible to be imported. Even though a written permit has been issued for the importation of an article, such article may be moved into the United States from the port of entry only if all applicable requirements of this subpart are met and only if an inspector at the port of entry determines that no emergency measures pursuant to section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd) are necessary with respect to such article.[5]

(d) Any permit which has been issued may be withdrawn by an inspector or the Deputy Administrator if he/she determines that the holder thereof has not complied with any condition for the use of the document. The reasons for the withdrawal shall be confirmed in writing as promptly as circumstances permit. Any person whose permit has been withdrawn may appeal the decision in writing to the Deputy Administrator within ten (10) days after receiving the written notification of the withdrawal. The appeal shall state all of the facts and reasons upon which the person relies to show that the permit was wrongfully withdrawn. The Deputy Administrator shall grant or deny the appeal, in writing, stating the reasons for the decision as promptly as circumstances permit. If there is a conflict as to any material fact, a hearing shall be held to resolve such conflict.

(Approved by the Office of Management and Budget under control number 0579-0049)

(44 U.S.C. 35)

[46 FR 38334, July 27, 1981, and 47 FR 3082, Jan. 22, 1982, as amended at 47 FR 3085, Jan. 22, 1982; 48 FR 57466, Dec. 30, 1983; 49 FR 1876, Jan. 16, 1984; 50 FR 8704, Mar. 5, 1985]

§ 319.75-4 Treatments.[6]

A restricted article prior to movement into the United States from the port of entry shall be treated under the supervision of an inspector for possible infestation with khapra beetle as set forth below:

(a) Brassware; wooden screens; goatskins; lambskins; sheepskins; plant gums; seeds of the plant family cucurbitaceae; jute or burlap bagging that contains cargo, and the cargo in such bagging (except for articles specified in paragraphs (b) and (c) of this section); and jute or burlap bagging that is used as a packing material, and the cargo for which the jute or burlap bagging is used as a packing material (except for articles specified in paragraphs (b) and (c) of this section).

(1) Fumigation with methyl bromide under a tarpaulin at normal atmospheric pressure in accordance with one of the following schedules:

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[5] Section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd) provides, among other things, that the Secretary of Agriculture may, whenever he deems it necessary as an emergency measure in order to prevent the dissemination of any plant pest new to or not theretofore known to be widely prevalent or distributed within and throughout the United States, seize, quarantine, treat, apply other remedial measures to, destroy, dispose of, in such manner as he deems appropriate, subject to provisions in section 105 (b) and (c) of the Act (7 U.S.C. 150dd (b) and (c)), any product or article, including any article subject to this subpart, which is moving into or through the United States, and which he has reason to believe was infested or infected by or contains any plant pest at the time of such movement. Sections 105 and 107 of the Federal Plant Pest Act (7 U.S.C. 150dd, 150ff) also authorize emergency measures against restricted articles which are not in compliance with the provisions of this subpart.

[6] There is a possibility that some articles, especially live plants, could be damaged by fumigation.

(i) *40 g/m^3 (2½ lb/1000 ft^3) for 12 hrs. at 32° C (90° F) or above.*

(20 g (oz) minimum gas concentration at 2–4 hrs.).
(15 g (oz) minimum gas concentration at 12 hrs.).

(ii) *56 g/m^3 (3½ lb/1000 ft^3) for 12 hrs. at 26.5°–31.5 ° C (80°–89°F).*

(30 g (oz) minimum gas concentration at 2–4 hrs.).
(20 g (oz) minimum gas concentration at 12 hrs.).

(iii) *72 g/m^3 (4½ lb/1000 ft^3) for 12 hrs. at 21°–26° C (70°–79° F).*

(40 g (oz) minimum gas concentration at 2–4 hrs.).
(25 g (oz) minimum gas concentration at 12 hrs.).

(iv) *96 g/m^3 (6 lb/1000 ft^3) for 12 hrs. at 15.5°–20.5° C (60°–69° F).*

(50 g (oz) minimum gas concentration at 2–4 hrs.).
(30 g (oz) minimum gas concentration at 12 hrs.).

(v) *120 g/m^3 (7½ lb/1000 ft^3) for 12 hrs. at 10°–15° C (50°–59° F).*

(60 g (oz) minimum gas concentration at 2–4 hrs.).
(35 g (oz) minimum gas concentration at 12 hrs.).

(vi) *144 g/m^3 (9 lb/1000 ft^3) for 12 hrs. at 4.5°–9.5° C (40°–49° F).*

(70 g (oz) minimum gas concentration at 2–4 hrs.).
(40 g (oz) minimum gas concentration at 12 hrs.).

(2) Fumigation with methyl bromide in a chamber at normal atmospheric pressure at one of the following schedules:

(i) *40 g/m^3 (2½ lb/1000 ft^3) for 12 hrs. at 32° C (90° F) or above.*

(ii) *56 g/m^3 (3½ lb/1000 ft^3) for 12 hrs. at 26.5°–31.5 ° C (80°–89°F).*

(iii) *72 g/m^3 (4½ lb/1000 ft^3) for 12 hrs. at 21°–26° C (70°–79° F).*

(iv) *96 g/m^3 (6 lb/1000 ft^3) for 12 hrs. at 15.5°–20.5° C (60°–69° F).*

(v) *160 g/m^3 (10 lb/1000 ft^3) for 12 hrs. at 10°–15° C (50°–59° F).*

(vi) *192 g/m^3 (12 lb/1000 ft^3) for 12 hrs. at 4.5°–9.5° C (40°–49° F).*

(3) Fumigation with methyl bromide in a chamber at 660mm (26 inch) vacuum at one of the following schedules:

(i) *128 g/m^3 (2½ lb/1000 ft^3) for 3 hrs. at 15.5° C (60°F) or above.*

(ii) *144 g/m^3 (9 lb/1000 ft^3) for 3 hrs. at 4.5°–15° C (40°–59° F).*

(iii) *160 g/m^3 (10 lb/1000 ft^3) for 3 hrs. at –1°–4° C (30°–39° F).*

NOTE: Maximum volume of commodity being treated under subsection (3) shall not exceed 75% of total volume of chamber.

(b) Burlap bagging and jute bagging not containing cargo; and flour or finely ground oily meals, and the jute or burlap bagging used as a container or packing material for such flour or meals.

(1) Fumigation with methyl bromide under a tarpaulin at normal atmospheric pressure at one of the following schedules:

(i) *64 g/m^3 (4 lb/1000 ft^3) for 24 hrs. at 32° C (90° F) or above.*

(10 g (oz) gas concentration in commodity at 4–24 hrs.).
(35 g (oz) gas concentration in space at 4–12 hrs.).
(25 g (oz) gas concentration in space at 12–24 hrs.).

(ii) *96 g/m^3 (6 lb/1000 ft^3) for 24 hrs. at 26.5°–31.5 ° C (80°–89°F).*

(15 g (oz) gas concentration in commodity at 4–24 hrs.).
(50 g (oz) gas concentration in space at 4–12 hrs.).
(30 g (oz) gas concentration in space at 12–24 hrs.).

(iii) *128 g/m^3 (8 lbs/1000 ft^3) for 24 hrs. at 21°–26° C (70°–79° F).*

(20 g (oz) gas concentration in commodity at 4–24 hrs.).
(65 g (oz) gas concentration in space at 4–12 hrs.).
(35 g (oz) gas concentration in space at 12–24 hrs.).

(iv) *192 g/m^3 (12 lb/1000 ft^3) for 24 hrs. at 15.5°–20.5° C (60°–69° F).*

(30 g (oz) gas concentration in commodity at 4–24 hrs.).
(95 g (oz) gas concentration in space at 4–12 hrs.).
(50 g (oz) gas concentration in space at 12–24 hrs.).

(v) *192 g/m^3 (12 lb/1000 ft^3) for 28 hrs. at 10°–15° C (50°–59° F).*

(30 g (oz) gas concentration in commodity at 4–28 hrs.).
(95 g (oz) gas concentration in space at 4–12 hrs.).

(50 g (oz) gas concentration in space at 12-28 hrs.).

(vi) *192 g/m^3 (12 lb/1000 ft^3) for 32 hrs. at 4.5°-9.5° C (40°-49° F).*

(30 g (oz) gas concentration in commodity at 4-32 hrs.).
(95 g (oz) gas concentration in space at 4-12 hrs.).
(50 g (oz) gas concentration in space at 12-32 hrs.).

(2) Fumigation with methyl bromide in a chamber at normal atmospheric pressure at one of the following schedules:

(i) *64 g/m^3 (4 lb/1000 ft^3) for 24 hrs. at 32° C (90° F) or above.*

(ii) *96 g/m^3 (6 lb/1000 ft^3) for 24 hrs. at 26.5°-31.5° C (80°-89°F).*

(iii) *128 g/m^3 (8 lbs/1000 ft^3) for 24 hrs. at 21°-26° C (70°-79° F).*

(iv) *192 g/m^3 (12 lb/1000 ft^3) for 24 hrs. at 15.5°-20.5° C (60°-69° F).*

(v) *192 g/m^3 (12 lb/1000 ft^3) for 28 hrs. at 10°-15° C (50°-59° F).*

(vi) *192 g/m^3 (12 lb/1000 ft^3) for 32 hrs. at 4.5°-9.5° C (40°-49° F).*

(3) Fumigation with methyl bromide in a chamber at 660 mm (26 inch) vacuum at one of the following schedules:

(i) *128 g/m^3 (8 lb/1000 ft^3) for 3 hrs. at 15.5° C (60°F) or above.*

(ii) *144 g/m^3 (9 lb/1000 ft^3) for 3 hrs. at 4.5-15° C (40°-59° F).*

NOTE: Maximum volume of commodity being treated under subsection (3) shall not exceed 75% of the total volume of chamber.

(c) Baled cotton lint, cotton linters, cotton waste, and cotton piece goods; and the jute or burlap bagging used as a container or packing material for such baled cotton lint, cotton linters, cotton waste, or cotton piece goods.

(1) Fumigation with methyl bromide under a tarpaulin or in a chamber at normal atmospheric pressure at one of the following schedules:

(i) 128 g/m^3 (8 lb/1000 ft^3) for 24 hours at 15.5°C 60°F or above
(25 g (oz.) concentration in commodity 4-24 hrs.)
(65 g (oz.) concentration in space 4-12 hrs.)
(35 g (oz.) concentration in space 12-24 hrs.)
(ii) 176 g/m^3 (11 lb/1000 ft^3) for 24 hrs. at 4.5°-15°C (40°-59°F)
(30 g (oz.) concentration in commodity 4-24 hrs.)
(95 g (oz.) concentration in space 4-24 hrs.)
(50 g (oz.) concentration in space 12-24 hrs.)

NOTE: Maximum volume of commodity being treated under subsection (1) shall not exceed 50% of the total volume of chamber. Concentration readings may be omitted for chamber fumigations.

(2) Fumigation with methyl bromide in a chamber at 660mm (26 inch) vacum at one of the following schedules:

(i) 128 g/m^3 (8 lb/1000 ft^3) for 3 hrs. at 15.5°C (60°F) or above.
(ii) 144 g/m^3 (9 lb/1000 ft^3) for 3 hrs. at 4.5°-15°C (40°-59°F).

NOTE: Maximum volume of commodity being treated under subsection (2) shall not exceed 75% of the total volume of chamber.

[46 FR 38334, July 27, 1984, as amended at 49 FR 1876, Jan. 16, 1984; 50 FR 8704, 8706, Mar. 5, 1985]

§ 319.75-5 Marking and identity.

(a) Any restricted article at the time of importation shall plainly and correctly bear on the outer container (if in a container) or on the restricted article (if not in a container) the following information:

(1) General nature and quantity of the contents,

(2) Country or locality of origin,

(3) Name and address of shipper, owner, or person shipping or forwarding the article,

(4) Name and address of consignee,

(5) Identifying shipper's mark and number, and

(b) Any restricted article shall be accompanied at the time of importation by an invoice or packing list indicating the contents of the shipment.

(Approved by the Office of Management and Budget under control number 0579-0049)

(44 U.S.C. 35)

[46 FR 38334, July 27, 1981, and 47 FR 3082, Jan. 22, 1982, as amended at 47 FR 3085, Jan. 22, 1982; 48 FR 57466, Dec. 30, 1983]

§ 319.75-6 Arrival notification.

Promptly upon arrival of any restricted article at a port of entry, the importer shall notify Plant Protection and Quarantine of the arrival by such means as a manifest, Customs entry document, commercial invoice, waybill, a broker's document, or a notice form provided for that purpose.

(Approved by the Office of Management and Budget under control number 0579-0049)

(44 U.S.C. 35)

[46 FR 38334, July 27, 1981, and 47 FR 3082, Jan. 22, 1982, as amended at 48 FR 57466, Dec. 30, 1983]

§ 319.75–7 Costs and charges.

The services of the inspector during regularly assigned hours of duty and at the usual places of duty shall be furnished without cost to the importer.[3] The importer shall be responsible for arrangements for treatments required under § 319.75–4. Any treatment required under § 319.75–4 for a restricted article shall be performed at the port of entry by a nongovernmental fumigator at the importer's expense, and shall be performed under the supervision of an inspector. Plant Protection and Quarantine will not be responsible for any costs or charges, other than those indicated in this section.

[46 FR 38334, July 27, 1981 (Interim Rule); 47 FR 3082, Jan. 22, 1982 (Final Rule)]

§ 319.75–8 Ports of entry.

Any restricted article shall be imported only at a port of entry listed in § 319.37–14 of this part and found by the Deputy Administrator and specified on the permit issued pursuant to § 319.75–3 to have a nongovernmental fumigator available at the port to treat such restricted article pursuant to § 319.75–4. It is the responsibility of the importer to arrange with the nongovernmental fumigator for treatment of the article.

[46 FR 38334, July 27, 1981 (Interim Rule); 47 FR 3082, Jan. 22, 1982 (Final Rule)]

§ 319.75–9 Inspection and phytosanitary certificate of inspection.

(a) Any nursery stock, plant, fruit, vegetable, root, bulb, or other plant product designated as a restricted article and grown in a country maintaining an official system of inspection for the purpose of determining whether such article is free from injurious plant diseases, injurious insect pests, and other plant pests shall be accompanied by a phytosanitary certificate of inspection from the plant protection service of such country at the time of importation or offer for importation into the United States. Such certificate may cover more than one article and more than one container kept together during shipment and offer for importation.

(b) Any nursery stock, plant, fruit, vegetable, root, bulb, seed, or other plant product designated as a restricted article which is accompanied by a valid phytosanitary certificate of inspection is subject to inspection by an inspector at the time of importation into the United States for the purpose of determining whether such article is free of injurious plant diseases, injurious insect pests, and other plant pests, and whether such article is otherwise eligible to be imported into the United States.

(c) Any nursery stock, plant, fruit, vegetable, root, bulb, seed, or other plant product designated as a restricted article and grown in a country not maintaining an official system of inspection for the purpose of determining whether such article is free from injurious plant diseases, or injurious insect pests, and other plant pests shall be inspected by an inspector at the time of importation into the United States for the purpose of determining whether such article is free of such diseases and pests and whether such article is otherwise eligible to be imported into the United States.

[50 FR 8707, Mar. 5, 1985]

Subpart—Exotic Bee Diseases and Parasites

AUTHORITY: Secs. 105, 106, and 107; 71 Stat. 32-34 (7 U.S.C. 150dd, 150ee, 150ff); 7 CFR 2.17, 2.51, and 371.2.

SOURCE: 50 FR 24172, June 10, 1985, unless otherwise noted.

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[3] Provisions relating to costs for other services of an inspector are contained in 7 CFR Part 354.

§ 319.76 Restrictions on importation of restricted articles; disposal of articles refused importation.

(a) No person may import any restricted article unless in conformity with all of the restrictions in this subpart.

(b) Any article refused importation for noncompliance with the requirements of this subpart shall be promptly removed from the United States or abandoned by the importer, and pending such action shall be subject to the immediate application of such safeguards against escape of plant pests as the inspector determines necessary to prevent the introduction into the United States of plant pests. If such article is not promptly safeguarded, removed from the United States, or abandoned for destruction by the importer, it may be seized, destroyed, or otherwise disposed of in accordance with sections 105 and 107 of the Federal Plant Pest Act (7 U.S.C. 150dd, 150ff).

(c) A restricted article may be imported without complying with other provisions under this subpart if:

(1) Imported by the U.S. Department of Agriculture for experimental or scientific purposes;

(2) Imported at the Plant Germplasm Quarantine Center, Building 320, Beltsville Agricultural Research Center East, Beltsville MD 20705, or at a port of entry designated by an asterisk in § 319.37-14(b);

(3) Imported pursuant to a departmental permit issued for such article and kept on file at the port of entry;

(4) Imported under conditions specified on the departmental permit and found by the Deputy Administrator to be adequate to prevent the introduction into the United States of plant pests, i.e., conditions of treatment, processing, shipment, disposal; and

(5) Imported with a departmental tag or label securely attached to the outside of the container or securely attached to the article itself if not in a container, and with such tag or label bearing the name of the person to whom the permit is issued.

§ 319.76-1 Definitions.

Terms used in the singular form in this subpart shall be construed as the plural, and vice versa, as the case may demand. The following terms, when used in this subpart, shall be construed respectively, to mean:

Bee. Any member of the superfamily Apoidea.

Deputy Administrator. The Deputy Administrator of the Animal and Plant Health Inspector Service for Plant Protection and Quarantine, U.S. Department of Agriculture, or any other officer or employee of the Department to whom authority to act in his or her stead has been or may hereafter be delegated.

Exotic bee diseases. Bee diseases of foreign origin, including but not limited to *Aspergillus* spp., *Bacillus* spp., *Entomophthora* spp., *Beauveria* spp., *Cordyceps* spp., and *Saccharomyces* spp.

Exotic bee parasites. Bee parasites of foreign origin, including but not limited to *Coelioxys* spp. and *Chrysis* spp., *Varroa jacobsoni, Euvarroa sinhai, Tropilaelaps clareae,* and *Acarapis woodi.*

Import (importation, imported). To import or move into the United States.

Inspector. Any employee of Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or other person authorized by the Deputy Administrator in accordance with law to enforce the provisions of this subpart.

Person. Any individual, corporation, company, society, association, or any other organized group.

Plant pest. The egg, pupal, and larval stages as well as any other living stage of any insects, mites, nematodes, slugs, snails, protozoa, or other invertebrate animals, bacteria, fungi, or other parasitic plants or reproductive parts thereof, viruses, or any organisms similar to or allied with any of the foregoing, or any infectious substances, which can directly or indirectly injure or cause disease or damage in any plants or parts thereof, or any processed, manufactured, or other products of plants.

Plant Protection and Quarantine. The organizational unit within the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, delegated responsibility for enforcing provisions of the Federal Plant Pest Act and related legislation and regulations promulgated thereunder.

Secretary. The Secretary of Agriculture, or any other officer or employee of the Department of Agriculture to whom authority to act in his or her stead has been or may hereafter be delegated.

United States. The States, District of Columbia, American Samoa, Guam, Northern Mariana Islands, Puerto Rico, and the Virgin Islands of the United States.

§ 319.76-2 Restricted articles.

The following articles from any country or locality other than Canada are restricted articles:

(a) Live bees, other than honeybees of the genus *Apis*, in any life stage;[1]

(b) Dead bees of any genus;

(c) Used bee boards, hives, nests, and nesting material;

(d) Used beekeeping equipment, e.g. smokers, hive tools, gloves or other clothing, and shipping containers;

(e) Beeswax, unless it has been liquefied;

(f) Pollen for bee feed; and

(g) Honey for bee feed.

§ 319.76-3 Permits.

(a) A restricted article may be imported only after issuance of a written permit by Plant Protection and Quarantine.

(b) An application for a written permit must be submitted to the Biological Assessment Support Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Federal Building, Hyattsville, MD 20782, and should be submitted at least 30 days prior to arrival of the article at the United States port of entry. The completed application does not have to be on any particular form but must indicate that it is an application for a written permit, and include the following information:

(1) Name, address, and telephone number of the importer;

(2) Approximate quantity and kinds of articles intended to be imported;

(3) Country or locality of origin;

(4) Intended United States port of entry;

(5) Means of transportation; and

(6) Expected date of arrival.

(c) After receipt and review of the application by Plant Protection and Quarantine, a written permit indicating the applicable conditions in this subpart for importation shall be issued for the importation of the articles specified in the application if such articles appear to be eligible to be imported. Even though a written permit has been issued for the importation of an article, it may be moved into the United States from the port of entry only if all requirements of this subpart are met and only if an inspector at the port of entry does not determine that emergency measures pursuant to section 105 of the Federal Plant Pest Act 7 U.S.C. 150dd) are necessary with respect to such article.[2]

(d) Any permit which has been issued may be withdrawn by an inspector or the Deputy Administrator if he or she determines that the permit holder has not complied with any condition for the use of the permit. The reasons for the withdrawal shall be confirmed in writing as promptly as circumstances allow. Any person whose permit has been withdrawn may appeal the decision in writing to the Deputy Administrator within 20 days after receiving the written notification of the withdrawal. The appeal must state all of the facts and reasons upon which the person relies to show that the permit was wrongfully withdrawn. The Deputy Administrator shall grant or deny the appeal in writing, stating the reasons for the decision, as promptly as circumstances allow. If there is a conflict as to any material fact, a hearing shall be held to resolve the conflict.

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[1] The Honeybee Act, as amended (7 U.S.C. 281 *et seq.*), among other things, prohibits the importation into the United States of any live honeybees of the genus *Apis* in any life stage except as allowed under provisions of that Act and regulations in 7 CFR Part 322.

[2] Section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd) provides, among other things, that the Secretary of Agriculture may, whenever he or she deems it necessary as a emergency measure in order to prevent the dissemination of any plant pest new to or not theretofore known to be widely prevalent or distributed within and throughout the United States, seize, quarantine, treat, apply other remedial measures to, destroy, or dispose of, in such manner as he or she deems appropriate, subject to provisions in section 105 (b) and (c) of the Act (7 U.S.C. 150dd (b) and (c)), any product or article, including any article subject to this subpart, which is moving into or through the United States, and which he or she has reason to believe was infested or infected by or contains any plant pest at the time of such movement. Sections 105 and 107 of the Federal Plant Pest Act (7 U.S.C. 150dd, 150ff) also authorize emergency measures against articles which are not in compliance with the provisions of this subpart.

(Approved by the Office of Management and Budget under control number 0579-0072)

§ 319.76-4 Inspections and treatments.

(a) Live bees, other than honeybees of the genus *Apis*, in any life stage shall be microscopically inspected by an inspector for exotic bee diseases and parasites, and any bee disease or parasite found will be physically removed by an inspector or destroyed by an inspector by treatment with a pesticide registered by the Environmental Protection Agency under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 135 *et seq.*), for use on bees and used in accordance with directions on the label in connection with the registration under the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended. The inspection may include dissection of a statistically designed representative sample of the bees, if deemed necessary by the inspector for determinations concerning the absence or presence of bee diseases or parasites. If the inspector determines that a disease or parasite cannot be removed or otherwise destroyed, the bees shall be killed by immersion in a solution containing at least 70% alcohol.

(b) Any dead bees for research at the time of importation must be in a solution containing at least 70% alcohol, or must be in a dry, sealed container. If in a dry, sealed container, the dead bees shall be kept in the container under the control of an inspector at the port of entry for 7 days.

(c) Any restricted article not covered by paragraph (a) or (b) of this section, prior to movement into the United States from the port of entry, shall be treated under the supervision of an inspector as follows:

(1) Dead bees; used bee boards, hives, nests, or nesting material; used beekeeping equipment; and pollen for bee feed shall be treated in an airtight chamber with 450 mg of ethylene oxide per liter of chamber space at a temperature of at least 100°F (37.78°C) for 8 hours.

(2) Beeswax that has not been liquefied shall be melted.

(3) Honey for bee feed shall be heated to 212°F (100°C) for 30 minutes.

§ 319.76-5 Marking and shipping.

(a) Any restricted article for importation by means other than mail shall at the time of importation bear on the outer container (if in a container) or on the article (if not in a container) the following information:

((1) General nature and quantity of the contents,

(2) Country or locality of origin,

(3) Name and address of shipper, owner, or person shipping or forwarding the article,

(4) Name and address of consignee, and

(5) Identifying shipper's mark and number.

(b) Any restriction article for importation by mail must be addressed and mailed to Plant Protection and Quarantine at a port of entry designated by an asterisk in § 319.37-14(b) of this part; must be accompanied by a separate sheet of paper within the package bearing the name, address, and telephone number of the intended recipient; and must bear on the outer container the following information:

(1) General nature and quantity of the contents,

(2) Country or locality of origin, and

(3) Name and address of shipper, owner, or person shipping or forwarding the article.

(c) Any restricted article must be accompanied at the time of importation by an invoice or packing list indicating the contents of the shipment.

(d) Live bees in any life stage, other than honeybees of the genus *Apis*, may be imported only in loose cells within noncrushable (hard plastic, wood, or metal), insect-proof containers.

(Approved by the Office of Management and Budget under control number 0579-0072)

§ 319.76-6 Arrival notification.

Promptly upon arrival of any restricted article at a port of entry, except for mail shipments, the importer must notify Plant Protection and Quarantine of the arrival by such means as a manifest, customs entry document, commercial invoice, waybill, a broker's document, or a notice form provided for that purpose.

(Approved by the Office of Management and Budget under control number 0579-0049)

§ 319.76-7 Costs and charges.

The services of the inspector during regularly assigned hours of duty and at the usual places of duty shall be furnished without cost to the importer.[3] The importer shall be responsible for arrangements for treatments required under § 319.76-4. Any treatment required under § 319.76-4 for a restricted article, other than for treatments of live bees in any life stage or for holding dead bees in dry, sealed containers, shall be performed at the port of entry by a nonfederal establishment at the importer's expense, and shall be performed under the direction of an inspector. Plant Protection and Quarantine will not be responsible for any costs or charges, other than those indicated in this section.

§ 319.76-8 Ports of entry.

(a) Any restricted article, other than bees in any life stage, imported by means other than mail may be imported only at a port of entry listed in § 319.37-14(b) of this part.

(b) Any restricted article, other than bees in any life stage, imported by mail may be imported only at a port of entry designated by an asterisk in § 319.37-14(b) of this part.

(c) Live bees in any life stage, other than honeybees of the genus *Apis*, may be imported at the Bee Biology and Systematics Laboratory, USDA, ARS, 261 NRB-UMC 53, Utah State University, Logan, Utah 84322; or at the Plant Germplasm Quarantine Center, Building 320, Beltsville Agricultural Research Center East, Beltsville, MD 20705.

PART 320—MEXICAN BORDER REGULATIONS

Sec.
320.1 Administration.
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AUTHORITY: 56 Stat. 40, as amended, sec. 106, 71 Stat. 33; 7 U.S.C. 149, 150ee.

SOURCE: 24 FR 10822, Dec. 29, 1959, unless otherwise noted.

§ 320.1 Administration.

The Deputy Administrator of the Plant Protection and Quarantine Programs is charged with the administration of the provisions of this act and the regulations in this part concurrently with the Plant Quarantine Act and the quarantines and orders issued thereunder.

§ 320.2 Regulated vehicles, articles, and materials.[1]

To carry out the purpose of the aforesaid act to prevent the introduction of insect pests and plant diseases the regulations in this part shall apply to railway cars, boats crossing the Rio Grande, aircraft, drawn or self-propelled vehicles (such as wagons, carts, trucks, automobiles), freight, baggage, containers, and articles or materials which may be contaminated with insect pests or plant diseases.

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[3] Provisions relating to costs for other services of an inspector are contained in 7 CFR Part 354.

[1] The entry of certain plants and plant products is regulated or prohibited by quarantines and regulations promulgated under the Plant Quarantine Act, as amended.

§ 320.3 Definitions.

For the purpose of this part the following words, names, and terms shall be construed, respectively, to mean:

(a) "Inspector" means an inspector of the Plant Protection and Quarantine Programs, United States Department of Agriculture.

(b) "Owner or agent" includes both the singular and the plural and denotes the person, agent, firm, company, or official, having responsible custody of railway cars, vehicles, or other materials subject to these regulations.

(c) "Disinfection" includes any treatment or process designed to destroy insect pests or plant disease organisms.

(d) "Railway cars" includes all types of cars commonly employed in the transportation of freight, such as box, flat, tank, refrigerator, gondola, stock, etc.

(e) "Cleaning" means the removal, to the satisfaction of the inspector, of matter, other than the cargo and articles being moved, which may carry insect pests or plant diseases from railway cars, other vehicles, freight, express, baggage, and other materials.

(f) "Other vehicles" includes means of conveyance other than railway cars, such as aircraft, boats, automobiles, trailers, trucks, wagons, and carts, etc.

(g) "Other materials" includes all commodities, articles, and materials which may be the means of introducing insect pests or plant diseases into the United States.

(h) *Soil.* The loose surface material of the earth in which plants grow, in most cases consisting of disintegrated rock with an admixture of organic material and soluble salts.

§ 320.4 Inspection.

As a condition of entry into the United States from Mexico all articles and materials designated in § 320.2 shall be subject to examination by an inspector for the purpose of determining whether they may enter the United States without risk of introducing insect pests and plant diseases.

§ 320.5 Railway cars.

When the inspector has determined by examination that railway cars may enter the United States without risk of introducing insect pests and plant diseases into the United States, he shall, insofar as these regulations may govern, permit their entry. If the examination discloses that any car is contaminated and would involve risk of introducing insect pests or plant diseases into the United States, he shall prescribe, as condition of entry, cleaning, transfer of cargo, or disinfection, or all three. When cleaning alone has been prescribed and done to the satisfaction of the inspector he shall permit the entry of the cleaned cars, insofar as these regulations may govern entry. When disinfection is prescribed the entry of the cars shall be conditioned on their being fumigated, under the supervision of the inspector, either in a Government-owned fumigation house or otherwise in a place and by methods prescribed by the inspector. Immediately upon entry of railway cars for fumigation they shall be moved by the owner or agent having charge of same directly to the Government-owned fumigation plant or "spotted" at an approved place and before placing the cars in the fumigation chambers or "spotting" them for fumigating the railroad company servicing the cars shall cause the car doors to be opened and subsequent to fumigation it shall be the responsibility of the railroad company to remove the cars from the fumigation plant or place where they have been "spotted" and to close the car doors when the occasion requires. When the prescribed fumigation has been accomplished in manner required by the Deputy Administrator of the Plant Protection and Quarantine Programs, the inspector shall permit entry into the United States insofar as this part may govern. The inspector may authorize temporary entry of railway cars under conditions to be prescribed by him for unloading or loading in railroad yards at the port of entry or for intransit movement from and to Mexico.

§ 320.6 Vehicles, articles, and materials, other than railway cars and unregulated boats.

When the inspector has determined by examination that vehicles, other than railway cars and unregulated boats, or any of the various articles and materials covered by this part may enter the United States without risk of introducing insect pests or plant diseases, he shall permit their entry insofar as the regulations in this part may govern. If the examination by the inspector discloses such regulated vehicles, articles, or materials are contaminated and would involve risk of introducing insect pests or plant diseases into the United States, he shall prescribe, as a condition of entry, cleaning, transfer of cargo, or disinfection, or any or all of these. The cleaning, transfer of cargo and disinfection shall be carried out under his supervision and to his satisfaction and until it has been so accomplished, entry into the United States shall be refused.

§ 320.7 Responsibility for opening and cleaning.

The owner or agent in charge of railway cars, other vehicles, and freight, express, baggage, articles, or other materials shall open these for inspection as required by the inspector and provide reasonable access to every part thereof, and when cleaning is prescribed by the inspector as a condition of entry, shall so open, and clean, and do any and all things reasonably pertaining thereto as required by the inspector. All costs incident to entry, opening, and cleaning, except for the services of the inspector, shall be paid by the owner or agent in charge.

§ 320.8 Responsibility for disinfection.

When disinfection involves fumigation, the treatment may be done in Government-owned facilities available for that purpose or in the railway cars themselves. If, in the judgment of the inspector, fumigation will not provide adequate safeguards against the introduction of insect pests and plant diseases, he may prescribe another type of disinfection which shall be applied by the owner or agent under the supervision of the inspector. Costs incident to disinfection, other than for the services of the inspector, shall be borne by the owner or his agent.

[32 FR 8953, June 23, 1967]

§ 320.9 Fees for disinfection in Government-owned facilities.

Prior to entry of railway cars or other vehicles to be fumigated in Government-owned facilities, as a condition of entry, the owner or his agent (including a carrier) shall arrange for the payment of all costs incident to such fumigation, except for the service of an inspector during regularly assigned hours of duty and at the usual place of duty. The fee collected shall represent as nearly as may be determined by the Deputy Administrator of the Plant Protection and Quarantine Programs the average cost of materials, facilities, and special labor used by the Plant Protection and Quarantine Programs in performing such fumigation. Payment of the fee, if practicable, shall be in the form of postal money orders, bank drafts, or certified checks drawn on U.S. banks, drawn to the credit of the Treasurer of the United States. Payment in U.S. currency will be accepted if tendered. All fees so collected by the inspector shall be promptly turned in to the Treasury of the United States as miscellaneous receipts in accordance with the practice approved by the Secretary of Agriculture. When fumigation is performed outside Government-owned facilities, all costs of such fumigation shall be borne by the owner or agent in charge.

[32 FR 8954, June 23, 1967, as amended at 36 FR 24917, Dec. 24, 1971]

§ 320.10 Soil.

Soil may be imported, as such, from Mexico at any port on the Mexican border only as authorized under this section.

(a) *Permits.* The Deputy Administrator of the Plant Protection and Quarantine Programs may issue permits for the importation of soil for research, analytical, religious, ceremonial, patriotic or similar purposes, or such other purposes as he shall deem consistent with the objectives of this part, specifying in the permit or in the related correspondence, the safeguards, including methods of treatment or other conditions, which he deems necessary for the purpose of preventing the introduction of insect pests and plant diseases.

(b) *Applications for permits.* Only persons resident in the United States may apply for permits to import soil from Mexico at a port on the Mexican border. Any such person contemplating such an importation shall first make application for a permit by using the form provided therefor by the Plant Protection and Quarantine Programs or by submitting to the Plant Protection and Quarantine Programs, in the form of a letter or other written communication, the following information: Origin of the shipment, destination, quantity, method of shipment, proposed port of first arrival in the United States, approximate date of arrival in the United States, intended use, measures to be employed to prevent danger of dissemination of insect pests and plant diseases, method of final disposition, and the number of parcels expected to be moved. In acting upon the application for permit for such importation of soil, the Deputy Administrator will follow the procedures outlined in § 330.202 of this chapter for the consideration of applications for permits to move plant pests, insofar as they are applicable.

(c) *Issuance of permits; special mailing labels for mail importations.* Upon the approval of an application for a permit to import soil from Mexico under this part, a permit may be issued, including any conditions which, in the opinion of the Deputy Administrator, are necessary in order to prevent the introduction of insect pests and plant diseases. The Deputy Administrator may require the applicant to agree in writing to the conditions prior to the issuance of the permit. The importer will receive with the permit information on the manner in which the importation is to be made. Permission to import soil without conditions may be issued orally by the inspector, if the soil is not imported by mail. All containers for soil are to be stoutly constructed so as to prevent breakage in transit and danger of dissemination of insect pests and plant diseases and shall be appropriately labeled as to contents. If the soil is imported by mail, special mailing labels will be issued to the importer, with instructions for their use, which he is to send to the foreign shipper. The quantity of mailing labels issued will be sufficient for the foreign shipper to attach one to each parcel forwarded by mail. Such mailing labels will indicate to the postal and the plant quarantine officials that the importation is authorized under the conditions specified in the permit. Importations arriving by mail without labels will be subject to refusal of entry into the United States by the inspector unless treated, at the expense of the owner, in a manner to remove danger of introduction of insect pests and plant diseases. The Deputy Administrator may issue mailing labels for importations into the United States of earth other than soil when the importation might otherwise be impeded because of similarity to earth subject to regulation under this section.

[24 FR 10822, Dec. 29, 1959, as amended at 32 FR 8954, June 23, 1967; 36 FR 24917, Dec. 24, 1971]

PART 321—RESTRICTED ENTRY ORDERS

Subpart—Foreign Potatoes

Sec.
321.1 Order.

IMPORTATION OF POTATOES

321.2 Definition.
321.3 General conditions governing potato importations.
321.4 Applications for permits for importation of potatoes.
321.5 Permits for entry of potatoes.
321.6 Foreign certificate of inspection.
321.7 Notice of arrival of potatoes by permittee.
321.8 Special provision for the importation of potatoes from Bermuda and Canada (except Newfoundland and the Land District of South Saanich on Vancouver Island of British Columbia).

AUTHORITY: Sec. 9, 37 Stat. 318; 7 U.S.C. 162. Interpret or apply secs. 1 and 5, 37 Stat. 315, as amended, 316, 7 U.S.C. 154, 159, unless otherwise noted.

SOURCE: 24 FR 10824, Dec. 29, 1959, unless otherwise noted.

Subpart—Foreign Potatoes

§ 321.1 Order.

(a) The Secretary of Agriculture, under authority conferred by section 5 of the act of Congress approved August 20, 1912, known as the Plant Quarantine Act (37 Stat. 316; 7 U.S.C. 159), does hereby determine and declare that, on and after January 15, 1914, potatoes imported or offered for import into the United States shall be subject to all the provisions of sections 1, 2, 3, and 4 of said act of Congress.

(b) As used in this part, unless the context otherwise requires, the term "United States" means the States, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands of the United States.

[24 FR 10824, Dec. 29, 1959, as amended at 30 FR 14551, Nov. 23, 1965]

IMPORTATION OF POTATOES

§ 321.2 Definition.

For the purpose of this subpart, the term "potato" shall be understood to mean the common or Irish potato (Solanum tuberosum) and any botanical varieties or horticultural forms thereof, or any other tuber-producing species of the genus Solanum and any botanical varieties or horticultural forms of such species.

[30 FR 14551, Nov. 23, 1965]

§ 321.3 General conditions governing potato importations.

(a) Except as provided under § 321.8, potatoes will be admitted from any country when it is determined by such field inspection as shall be approved as adequate by the Plant Protection and Quarantine Programs that such country is free from potato wart and other injurious potato diseases and insect pests new to or not widely prevalent or distributed within and throughout the United States, and such country must further agree to examine and certify all potatoes offered for export in compliance with the regulations in this subpart: *Provided*, That the entry of potatoes will not be permitted from any country unless such country has an effective quarantine prohibiting the entry into such country of potatoes from any country known to be invaded by the potato wart or other injurious potato diseases or insect pests new to or not widely prevalent or distributed within and throughout the United States: *Provided further*, That the restrictions in this subpart shall not apply to the importation of potatoes into Guam, but such importations are subject to the requirements of § 319.56-2.

(b) Entry of potatoes will not be allowed unless the invoice is accompanied by an original certificate and unless each container bears a copy certificate in accordance with § 321.6.

(c) Potatoes will be admitted into the United States only through the port designated in the permit.

(d) The entry of potatoes will not be permitted except where the shipments pass directly from the country of origin to the port of entry in the United States: *Provided*, That when transshipment is necessary at a port of a country under quarantine such transshipment shall be made by lighters from boat to boat in the harbor without landing the potatoes, and the consular invoice of place of origin must follow the shipment from original port of departure to the port of entry in the United States.

(e) No shipment of potatoes will be permitted entry until it has been examined by an inspector of the Department of Agriculture and found or believed to be free from the potato wart and other injurious potato diseases and insect pests.

(f) Shipments of potatoes certified as provided herein found to be infested with potato wart or other injurious potato diseases, or with insect pests, will be refused entry.

(g) All charges for storage, cartage, and labor incident to inspection other than the services of inspectors, shall be paid by the importer.

(h) Except in case of bulk shipments, potatoes shall be contained only in bags, boxes, barrels, or other containers that have not previously been used for potatoes.

§ 321.4 Applications for permits for importation of potatoes.

(a) Persons contemplating the importation of potatoes shall first make application to the Plant Protection and Quarantine Programs, Department of Agriculture, Washington, D.C. 20250, for a permit, stating in the application the name and address of the exporter, the country and locality where grown, the port of departure (or port of consular invoice), the proposed port of entry, and the name and address of the importer in the United States to whom the permit should be sent.

(b) Applications for permits must be made in advance of the shipment of the potatoes.

(c) Applications may be made by telegraph, in which case the information required above must be given.

(Approved by the Office of Management and Budget under control number 0579-0049)

(44 U.S.C. 35)

[24 FR 10824, Dec. 29, 1959, as amended at 48 FR 57466, Dec. 30, 1983]

§ 321.5 Permits for entry of potatoes.

(a) On approval by the Secretary of Agriculture of an application for the importation of potatoes a permit will be issued in quadruplicate. One copy of the permit will be furnished to the applicant, to be retained by him for presentation on the arrival of the imported potatoes to the customs officer at the port of entry named in the permit, one copy will be mailed to the collector at the port of entry, one to the inspector of the Department of Agriculture, and the fourth filed with the application. The beginning of the period for which a permit will be valid will be expressed in the permit. All permits will expire on the 30th day of June next after they become valid.

(b) Permits for the entry of potatoes may be refused and existing permits may be canceled on proof that the certificate of inspection does not correctly give the locality where the potatoes were grown, character of the shipment as to freedom from disease or insect infestation, or that the containers have been previously used for the shipment of potatoes.

§ 321.6 Foreign certificate of inspection.

(a) Each certificate shall give the number of the permit; the date of inspection; name and address of the exporter; the district or locality and the country where grown; name and address of consignee; a statement that the potatoes were grown in a district free from infection with potato wart and have been certified by a duly authorized official to be free from potato wart and other injurious potato diseases and insect pests, and that they are contained in bags, boxes, barrels, or other containers that have not previously been used for potatoes, except as to bulk shipments. The original certificate shall be signed and sealed by a responsible inspection official for the country of origin. The copy certificate may be entirely printed, including the seal. The form of such certificate shall be as follows:

To whom it may concern:

This is to certify that the potatoes included in this shipment as per invoice attached, shipped under permit No. ——, consigned to ———————— (Name and address of consignee) shipped by ————————, (Name and address of exporter) were grown in————————, a (District or locality and country), a district free from infection with potato wart, are contained in bags, boxes, barrels, or other containers, except as to bulk shipments, not previously used for potatoes, and were certified by ———————— (Name of inspector), ———— (Date and year), to be free from potato wart and other injurious potato diseases and insect pests.

[SEAL] (Signed)————————

(Title of official inspector) ————————

(b) Permits may be canceled and further permits refused for the importation of potatoes from any country whenever such potatoes, in the judgment of the Plant Protection and Quarantine Programs, are found to be so infested as plainly to indicate that the foreign inspection is merely perfunctory.

(c) Lists of officials in foreign countries authorized to inspect potatoes, giving their names and official designations, will be furnished to collectors of customs through the Secretary of the Treasury.

§ 321.7 Notice of arrival of potatoes by permittee.

(a) Immediately upon arrival and before unloading from the vessel or other carrier the permittee shall notify the Secretary of Agriculture, on forms provided for that purpose, stating the number of permit, the quantity of potatoes included in the shipment, the country and locality where grown, the name and address of exporter or shipper, the port of departure, the date of arrival, and the name of the ship or vessel if transported by water, and the designation of the dock where the potatoes are to be landed, and, if by rail, the name of the railroad company, the car numbers, and the terminal where the potatoes are to be unloaded. If the destination of the car is changed en route the permittee shall immediately notify the Secretary of Agriculture of the final destination.

(b) At the same time a copy of the notice to the Secretary of Agriculture shall be sent by the permittee to the duly authorized inspector of the department at the port of entry designated in the permit.

(c) Permits may be canceled and other permits refused if the permittee fails to give either of said notices or gives a false notice.

(d) Lists of such inspectors and officers may be ascertained from the collector of customs or the Plant Protection and Quarantine Programs, Washington, D.C. 20250.

(Approved by the Office of Management and Budget under control number 0579-0049)

(44 U.S.C. 35)

[24 FR 10824, Dec. 29, 1959, as amended at 48 FR 57466, Dec. 30, 1983]

§ 321.8 Special provision for the importation of potatoes from Bermuda and Canada (except Newfoundland and the Land District of South Saanich on Vancouver Island of British Columbia).

Potatoes may be imported from Bermuda and Canada (except Newfoundland and the Land District of South Saanich on Vancouver Island of British Columbia) into the United States free of any restrictions under this subpart.

[34 FR 13147, Aug. 14, 1969]

PART 322—HONEYBEES AND HONEYBEE SEMEN

Sec.
322.1 Importation of honeybees and honeybee semen.
322.2 Definitions.
322.3 Permits.
322.4 Inspections.
322.5 Marking and shipping.
322.6 Arrival notification.
322.7 Costs and charges.
322.8 Ports of entry.

AUTHORITY: Sec. 1; 90 Stat. 709 (7 U.S.C. 281); 7 CFR 217, 2.51, 371.2(c).

SOURCE: 50 FR 25689, June 21, 1985, unless otherwise noted.

§ 322.1 Importation of honeybees and honeybee semen.[1]

(a) No persons may import honeybees or honeybee semen, except as otherwise provided in this part.

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[1] The criteria for determining which countries may be listed in this part as countries from which honeybees or honeybee semen may be imported into the United States are set forth in 7 U.S.C. 281. In this regard, 7 U.S.C. 281 provides in relevant part, that:

(a) In order to prevent the introduction and spread of diseases and parasites harmful to honeybees, and the introduction of genetically undesirable germ plasm of honeybees, the importation into the United States of all honeybees is prohibited, except that honeybees may be imported into the United States—

(1) By the United States Department of Agriculture for experimental or scientific purposes, or

(2) From countries determined by the Secretary of Agriculture—

(A) To be free of diseases or parasites harmful to honeybees, and undesirable species or subspecies of honeybees; and

(B) To have in operation precautions adequate to prevent the importation of honeybees from other countries where harmful diseases or parasites, or undesirable species or subspecies, of honeybees exist.

(b) Honeybee semen may be imported into the United States only from countries determined by the Secretary of Agriculture to be free of undesirable species or subspecies of honeybees, and which have in operation precautions adequate to prevent the importation of such undesirable honeybees and their semem.

(b) Honeybees or honeybee semen from Canada may be imported into the United States without any further restrictions under this part.

(c) Honeybee semen from any country listed below is designated as a restricted article and may be imported only in accordance with the provisions in this part.

Australia
Bermuda
France
Great Britain
New Zealand
Sweden

(d) Honeybees from any country or locality other than Canada, may be imported without complying with other provisions of this part if:

(1) Imported by the U.S. Department of Agriculture for experimental or scientific purposes;

(2) Imported at the Plant Germplasm Quarantine Center, Building 320, Beltsville Agricultural Research Center East, Beltsville MD 20705, or at a port of entry designated by an asterisk in § 319.37-14(b);

(3) Imported pursuant to a departmental permit issued for such honeybees and kept on file at the port of entry;

(4) Imported under conditions specified on the departmental permit and found by the Deputy Administrator to be adequate to prevent the introduction into the United States of diseases or parasites harmful to honeybees, or genetically undesirable germ plasm of honeybees, i.e., conditions of treatment, processing, shipment, disposal; and

(5) Imported with a departmental tag or label securely attached to the outside of the container, and with such tag or label bearing the name of the person to whom the permit is issued.

(e) Any honeybees or honeybee semen offered for import or intercepted entering the United States and not in compliance with this part shall be immediately exported from the United States by the importer or shall be destroyed by an inspector. Pending exportation or destruction, the honeybees or honeybee semen shall be subject to the immediate application of such safeguards against escape of diseases or parasites harmful to honeybees, or undesirable species or subspecies of honeybees, as the inspector determines necessary to prevent the introduction into the United States of diseases or parasites harmful to honeybees, or undesirable species or subspecies of honeybees.

§ 322.2 Definitions.

Terms used in the singular form in this part shall be construed as the plural, and vice versa, as the case may demand. The following terms, when used in this part, shall be construed respectively, to mean:

Deputy Administrator. The Deputy Administrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine, U.S. Department of Agriculture, or any other officer or employee of the Department to whom authority to act in his or her stead has been or may hereafter be delegated.

Diseases harmful to honeybees. Honeybee diseases, including but not limited to diseases caused by *Aspergillus* spp., *Bacillus* spp., *Ascosphaera* spp., Kashmir virus, and *Saccharomyces* spp.

Honeybee. Any live honeybee of the genus *Apis* in any life stage and the germplasm of honeybees of the genus *Apis*, except honeybee semen.

Import (importation, imported). To import or move into the United States.

Inspector. Any employee of Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or other person authorized by the Deputy Administrator in accordance with the law to enforce the provisions of this part.

Parasites harmful to honeybees. Honeybee parasites, including but not limited to *Varroa jacobsoni, Euvarrao sinhai, Tropilaelaps clareae,* and *Acarapis woodi.*

Person. Any individual, corporation, company, society, association, or any other organized group.

Plant Protection and Quarantine. The organizational unit within the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, delegated responsibility for enforcing provisions of the Honeybee Act, as amended, and regulations promulgated thereunder.

Restricted article. Any honeybee semen from countries listed in § 322.1(c).

Undesirable species of subspecies of honeybees. Apis mellifera adansonii, commonly known as the African honeybee, and its hybrids; and *Apis mellifera capensis,* commonly known as the Cape honeybee.

United States. The States, District of Columbia, American Samoa, Guam, Northern Mariana Islands, Puerto Rico, and the Virgin Islands of the United States.

§ 322.3 Permits.

(a) A restricted article may be imported only after issuance of a written permit by Plant Protection and Quarantine.

(b) An application for a written permit must be submitted to the Biological Assessment Support Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Federal Building, Hyattsville, MD 20782, and should be submitted at least 30 days prior to arrival of the article at the port of entry. The completed application does not have to be on any particular form but must indicate that it is an application for a written permit and include the following information:

(1) Name, address, and telephone number of the importer;

(2) Amount of semen indicated to be imported and species or subspecies of the honeybees from which the semen was collected;

(3) Country or locality of origin;

(4) Intended United States port of entry;

(5) Means of transportation; and

(6) Expected date of arrival.

(c) After receipt and review of the application by Plant Protection and Quarantine, a written permit indicating the applicable conditions in this subpart for importation shall be issued for the importation of the articles specified in the application if such articles appear to be eligible to be imported. Even though a written permit has been issued for the importation of an article, it may be moved into the United States from the port of entry only if all requirements of this subpart are met and only if an inspector at the port of entry does not determine that emergency measures are necessary with respect to such article to assure that diseases or parasites harmful to honeybees and that undesirable species or subspecies of honeybees are not introduced into the United States.

(d) Any permit which has been issued may be withdrawn by an inspector or the Deputy Administrator if he or she determines that the permit holder has not complied with any condition for the use of the permit. The reasons for the withdrawal shall be confirmed in writing as promptly as circumstances allow. Any person whose permit has been withdrawn may appeal the decision in writing to the Deputy Administrator within 20 days after receiving the written notification of the withdrawal. The appeal must state all of the facts and reasons upon which the person relies to show that the permit was wrongfully withdrawn. The Deputy Administrator shall grant or deny the appeal in writing, stating the reasons for the decision, as promptly as circumstances allow. If there is a conflict as to any material fact, a hearing shall be held to resolve the conflict.

(Approved by the Office of Management and Budget under control number 0579-0073)

§ 322.4 Inspections.

Any restricted article is subject to inspection by an inspector at the time of importation for the purpose of determining whether such article is eligible to be imported.

§ 322.5 Marking and shipping.

(a) Any restricted article for importation by means other than mail shall at the time of importation bear on the outer container the following information:

(1) Amount of semen and species or subspecies of the honeybees from which the semen was collected,

(2) Country or locality of origin,

(3) Name and address of shipper, owner, or person shipping or forwarding the article,

(4) Name and address of consignee, and

(5) Identifying shipper's mark and number.

(b) Any restricted article for importation by mail must be addressed and mailed to Plant Protection and Quarantine at a place specified in § 322.8; must be accompanied by a separate sheet of paper within the package bearing the name, address, and telephone number of the intended recipient; and must bear on the outer container the following information:

(1) Species or subspecies of the honeybees from which the semen was collected,

(2) Country or locality of origin, and

(3) Name and address of shipper, owner, or person shipping or forwarding the article.

(c) Any restricted article must be accompanied at the time of importation by an invoice or packing list indicating the contents of the shipment.

(Approved by the Office of Management and Budget under control number 0579-0073)

§ 322.6 Arrival notification.

Promptly upon arrival of any restricted article at a port of entry, except for mail shipments, the importer must notify Plant Protection and Quarantine of the arrival by such means as a manifest, Customs entry document, commercial invoice, waybill, a broker's document, or a notice form provided for that purpose.

(Approved by the Office of Management and Budget under control number 0579-0049)

§ 322.7 Costs and charges.

The services of the inspector during regularly assigned hours of duty and at the usual places of duty shall be furnished without cost to the importer.[2] Plant Protection and Quarantine will not be responsible for any costs or charges, other than those indicated in this section.

§ 322.8 Ports of entry.

(a) Any restricted article may be imported only at a port of entry listed in § 319.37-14(b) of this chapter.

PART 330—FEDERAL PLANT PEST REGULATIONS; GENERAL; PLANT PESTS; SOIL, STONE, AND QUARRY PRODUCTS; GARBAGE

Subpart—General Provisions

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330.101 Policy.
330.102 Basis for certain regulations.
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Subpart—Movement of Plant Pests

330.200 Movement of plant pests regulated; permits required.
330.201 Applications for permits to move plant pests.
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330.203 Action on applications for permits to move plant pests; form of and conditions in permits.
330.204 Denial or cancellation of permits; reconsiderations.
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330.207 Permits for movement of organisms issued by other agencies.
330.208 Courtesy permits.
330.209 Permits for means of conveyance.
330.210 Packing materials and containers for plant pest movement; host materials.
330.210a Administrative instructions listing approved packing materials for plant pests.
330.211 Labelling of plant pests for movement under permits.
330.212 Movement of plant pests by baggage.

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[2] Provisions relating to costs for other services of an inspector are contained in 7 CFR Part 354.

Sec.

Subpart—Movement of Soil, Stone, and Quarry Products

330.300 Soil from foreign countries or Territories or possessions.
330.300a Administrative instructions exempting soil from parts of Canada from certain restrictions.
330.301 Stone and quarry products from certain areas in Canada.
330.302 Domestic movements of earth (including soil), stone, etc.

Subpart—Garbage

330.400 Garbage; quarantine; regulations on storage and movement on certain means of conveyance.

AUTHORITY: Secs. 103, 105-107, 111, 71 Stat. 32-34, 64 Stat. 561, sec. 501, 65 Stat. 290; 7 U.S.C. 150bb, 150dd-150ff 2260; 31 U.S.C. 483a, unless otherwise noted.

SOURCE: 24 FR 10825, Dec. 29, 1959, unless otherwise noted.

Subpart—General Provisions

§ 330.100 Definitions.

Words used in the singular form in the regulations in this part shall be deemed to impart the plural and vice versa, as the case may demand. For the purposes of this part, unless the context otherwise requires, the following words shall be construed, respectively, to mean:

(a) *Department.* The United States Department of Agriculture.

(b) *Deputy Administrator.* The Deputy Administrator of the Plant Protection and Quarantine Programs of the Animal and Plant Health Inspection Service of the Department, or any officer or employee of the Plant Protection and Quarantine Programs to whom authority has heretofore been delegated or may hereafter be delegated to act in his stead.

(c) *Plant Protection and Quarantine Programs.* The Plant Protection and Quarantine Programs, Animal and Plant Inspection Health Service of the Department.

(d) *Inspector.* A properly identified employee of the Department or other person authorized by the Department to enforce the provisions of the Federal Plant Pest Act and the Plant Quarantine Act.

(e) *Customs.* The Bureau of Customs, United States Treasury Department, or, with reference to Guam, the Customs office of the Government of Guam.

(f) *Person.* Any individual, corporation, company, association, firm, partnership, society, or joint stock company.

(g) *Owner.* The owner, or his agent (including a carrier), having responsible custody of a plant pest, means of conveyance, product or article subject to the regulations in this part.

(h) *Plant pest.* "Plant pest" means any living stage of: Any insects, mites, nematodes, slugs, snails, protozoa, or other invertebrate animals, bacteria, fungi, other parasitic plants or reproductive parts thereof, viruses, or any organisms similar to or allied with any of the foregoing, or any infectious substances, which can directly or indirectly injure or cause disease or damage in any plants or parts thereof, or any processed, manufactured, or other products of plants.

(i) *United States.* The States, the District of Columbia, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands of the United States.

(j) *Continental United States.* The 49 States located on the continent of North America and the District of Columbia.

(k) *Territories or possessions.* Guam, Puerto Rico, and the Virgin Islands of the United States.

(l) *Interstate.* From one State, Territory or possession or the District of Columbia into or through any other State, Territory or possession, or the District of Columbia. This term includes movements, within its provisions, to a port in the United States for export.

(m) *Move (moved and movement).* "Move" means ship, deposit for transmission in the mail, otherwise offer for shipment, offer for entry, import, receive for transportation, carry, or otherwise transport or move, or allow to be moved, by mail or otherwise. "Moved" and "movement" shall be construed accordingly.

(n) *Through the United States.* From and to places outside the United States.

(o) *Means of conveyance.* Automobiles, trucks, animal-drawn vehicles, railway cars, aircraft, boats, and other means of transportation.

(p) *Permit.* An authorization allowing the movement into or through the United States, or interstate, of a plant pest, or a regulated product, article, or means of conveyance in accordance with the provisions in this part.

(q) *The Federal Plant Pest Act.* Title I of the act approved May 23, 1957 (Title I, 71 Stat. 31; 7 U. S. C. 150aa et seq.).

(r) *Plant Quarantine Act.* The act approved August 20, 1912, 37 Stat. 315 as amended (7 U. S. C. 151 et seq.).

(s) *Earth.* The softer matter composing part of the surface of the globe, in distinction from the firm rock, and including the soil and subsoil, as well as finely divided rock and other soil formation materials down to the rock layer.

(t) *Soil.* The loose surface material of the earth in which plants grow, in most cases consisting of disintegrated rock with an admixture of organic material and soluble salts.

(u) *Garbage.* "Garbage" means all waste material derived in whole or in part from fruits, vegetables, meats, or other plant or animal (including poultry) material, and other refuse of any character whatsoever that has been associated with any such material on board any means of conveyance, and including food scraps, table refuse, galley refuse, food wrappers or packaging materials, and other waste material from stores, food preparation areas, passengers' or crews' quarters, dining rooms, or any other areas on vessels, aircraft, or other means of conveyance.

(v) *Administrative instructions.* Published documents relating to the enforcement of the regulations in this part, issued under authority of such regulations by the Deputy Administrator.

(w) *Administrator.* The Administrator of the Animal and Plant Health Inspection Service of the Department, or any officer or employee of the Animal and Plant Health Inspection Service to whom authority has heretofore been delegated or may hereafter be delegated to act in his/her stead.

(Sec. 106, 71 Stat. 33 (7 U.S.C. 150ee); secs. 8 and 9, 37 Stat. 318, as amended (7 U.S.C. 161, 162); sec. 102, 58 Stat. 735, as amended (7 U.S.C. 147a); sec. 306, 46 Stat. 689, as amended (19 U.S.C. 1306); sec. 2, 32 Stat. 792, as amended (21 U.S.C. 111); sec. 11, 23 Stat. 32, as added at 58 Stat. 734, as amended (21 U.S.C. 114a); 76 Stat. 663 (7 U.S.C. 450); secs. 101, 102, 83 Stat. 852, 853 (42 U.S.C. 4331, 4332); 39 FR 32319-32321; 37 FR 28464, 28477; 38 FR 19141)

[24 FR 10825, Dec. 29, 1959, as amended at 36 FR 24917, Dec. 24, 1971; 39 FR 32320, Sept. 6, 1974; 43 FR 39954, Sept. 9, 1978; 45 FR 80268, Dec. 4, 1980]

§ 330.101 Policy.

The purpose of the regulations in this part is to prevent the dissemination of plant pests into the United States, or interstate, by regulating the movement of plant pests into or through the United States, or interstate, and the movement of means of conveyance, earth, stone and quarry products, garbage, and certain other products and articles into or through the United States, or from any Territory or possession into or through any other Territory or possession or the continental United States. The Deputy Administrator shall employ procedures to carry out this purpose which will impose a minimum of impediment to foreign commerce and travel whenever practicable, consistent with proper precaution against plant pest dissemination. The same policy is to be applied in the case of interstate commerce and travel.

§ 330.102 Basis for certain regulations.

Whereas the unregulated movement of means of conveyance, their stores, baggage, mail, plants, plant products, garbage, earth, stone and quarry products, and other products and articles into or through the United States from places outside thereof or from any Territory or possession into or through any other Territory or possession or the continental United States may disseminate plant pests which are outside the scope of the Plant Quarantine Act, as well as pests within that act, and whereas authority to regulate the movement into or through the United States from foreign countries of means of conveyance and other nonplant products and articles, independently of plants or plant products, is not conferred by the Plant Quarantine Act, the regulations in this part are promulgated under the authority of the Federal Plant Pest Act.

§ 330.103 Documentation.

Any notifications, reports, and similar documentation not specified in the regulations in this part, but necessary to carry out the purpose of the regulations, will be prescribed in administrative instructions.

§ 330.104 Ports of entry.

Ports of entry for plant pests, means of conveyance, or other products or articles of any character whatsoever the entry or movement of which is regulated by the regulations in this part may be specified in administrative instructions or in the permits if permits are required by the regulations. Such ports shall be selected by the Deputy Administrator from ports named in 19 CFR 1.2 as "ports of entry" for the purpose of enforcing the customs laws or named in 19 CFR 6.13 as "international airports," or airports at which permission to land aircraft has been granted by the Commissioner of Customs or by the Collectors of Customs in accordance with 19 CFR 6.2. Except as otherwise provided by administrative instructions, or by permits issued in accordance with this part, the ports of entry shall be those named in 19 CFR 1.2 and 6.13. The port of entry in Guam shall be Agana unless otherwise specified in the permit by the Deputy Administrator.

§ 330.105 Inspection.

(a) *Inspection of foreign arrivals.* In order to prevent the dissemination into the United States of plant pests and for the purpose of carrying out the regulations in this part, all plant pests; means of conveyance and their stores; baggage; mail; plants; plant products; soil; stone and quarry products under § 330.300; garbage; and any other product or article of any character whatsoever which an inspector considers may be infested or infected by or contain a plant pest, arriving in the United States from any place outside thereof for entry into or movement through the United States shall be subject to inspection by an inspector at the port of first arrival, except that mail will be handled in accordance with the joint customs and postal regulations for inspecting and handling mail. No such plant pests; means of conveyance or their stores; baggage; mail; plants; plant products; soil; stone or quarry products under § 330.300; garbage; or other products or articles which an inspector notifies the Customs authorities should be held for inspection shall be released by Customs officers for entry or onward movement until released by an inspector. The release of all means of conveyance, products and articles regulated under Parts 319, 320, 321, and 352 of this chapter shall be in accordance with the requirements of those parts and the applicable provisions in this part. Whenever it shall be deemed safe to modify the requirements of this section by exempting any class of means of conveyance, products or articles from the requirement that they be held for inspection and release of the inspector, the exemptions shall be specified in administrative instructions. Inspectors shall make local arrangements, in accordance with policies of the Plant Protection and Quarantine Programs, with the Collector of Customs for the release by Customs officers on behalf of the inspector of any class of means of conveyance, their stores, baggage, mail, or other products or articles when such arrangements do not increase unduly the danger of plant pest dissemination and will facilitate clearance of means of conveyance, baggage, mail, or other products or articles.

(b) *Inspection of domestic movements.* For the purpose of preventing the interstate movement of plant pests, provisions requiring inspection of means of conveyance and products or articles moving interstate may be issued as regulations in association with quarantines in Part 301 or Part 318 of this chapter or in this part.

NOTE: Notices appearing at 24 FR 4650, June 9, 1959, 24 FR 5363, July 2, 1959, 24 FR 6889, August 26, 1959, and 24 FR 7519, September 18, 1959, provide in part as follows: That means of conveyance subject to such inspection and release requirements and arriving at any port of entry outside the regularly assigned hours of duty of the Federal plant quarantine inspector, will be held for such inspection and release, until the regularly assigned hours of duty. However, notice is also hereby given that pursuant to the provisions of the Act of August 28, 1950 (7 U.S.C. 2260) such inspection service outside of the regularly assigned hours of duty may be made available to any interested person, upon a reimbursable basis and in accordance with applicable regulations, upon request to the Plant Quarantine Inspector in Charge at such port.

Information concerning regularly assigned hours of duty for Federal plant quarantine inspectors at each port where such inspection is available may be obtained locally by application to the Plant Quarantine Inspector in Charge at such port.

§ 330.106 Emergency measures.

(a) *Procedures to prevent pest dissemination.* Whenever inspection of any means of conveyance, stores, baggage, mail, plants, plant products, earth, stone and quarry products, garbage, or other products or articles of any character whatsoever, arriving in the United States from a place outside thereof, or moving interstate, discloses a plant pest, or provides a reason to believe such a pest is present (other than one moving under permit in accordance with any conditions in the permit and the provisions in this part) which is new to, or not theretofore known to be widely prevalent or distributed within and throughout the United States, the inspector shall employ procedures necessary to prevent the dissemination of the plant pest. Such procedures shall also be employed with respect to means of conveyance or products or articles of any character whatsoever which have moved into the United States or interstate and which the inspector has reason to believe were infested or infected by or contained any such plant pest at the time of such movement. The inspector may follow administrative instructions containing procedures prescribed for certain situations, or he may follow a procedure selected by him from administratively approved methods known to be effective. The procedure may involve seizure, quarantine, treatment, application of other remedial measures, exportation, return to shipping point of origin, destruction, or other disposal, but no means of conveyance, product, article, or plant pest owned by any person shall be destroyed, exported, or returned to shipping point of origin or ordered to be so handled, unless there is, in the opinion of the inspector, no less drastic action adequate to prevent the dissemination of the plant pest. In forming such an opinion that no less drastic action is adequate, the inspector shall be guided by applicable specific and general instructions received from officers of the Plant Protection and Quarantine Programs. This section does not authorize action with respect to any means of conveyance, product, article, or plant pest which, at the time of the proposed action, is subject to disposal under the Plant Quarantine Act. In taking action with respect to any means of conveyance, product, article, plant pest, the inspector shall take cognizance of applicable requirements of the customs and postal laws and regulations.

(b) *Orders for remedial measures.* The inspector may order the owner of any means of conveyance, product, article, or plant pest, subject to disposal under paragraph (a) of this section, to treat, apply other remedial measures, destroy, or make other disposal thereof without cost to the Federal Government and in a manner specified in accordance with paragraph (a) of this section.

(c) *Failure to apply remedial measures.* If the measures required by the inspector are not applied promptly by the owner within the time limits specified by the inspector, the inspector shall apply measures necessary to prevent the dissemination of the plant pests.

(d) *Khapra beetle infestations of means of conveyance, or cargo or stores thereof; other infestations.* As a means of preventing the dissemination into the United States, or interstate, of the khapra beetle (Trogoderma granarium Everts), the following procedures will be applicable when that insect is found, or there is reason to believe it is present, in a means of conveyance within paragraph (a) of this section, or in any cargo or stores in such a means of conveyance, or in any cargo or stores unloaded or landed, or being unloaded or landed, in the United States therefrom. These procedures will also apply with respect to other plant pests when the inspector finds they are necessary and sufficient to prevent the spread of such pests.

(1) *Infestation in storerooms and similar compartments of means of conveyance (except aircraft).* (i) When infestation is found only in stores or storerooms, galleys, pantries, or similar noncargo compartments of a means of conveyance, except aircraft, the inspector shall prescribe and supervise the application of such remedial measures as, in his opinion, will be effective under conditions that will not spread the infestation to other parts of the means of conveyance, or to adjacent piers or other installations. If, in the opinion of the inspector, fumigation is the only available safeguard to eliminate the infestation, he shall order the owner to arrange for immediate fumigation of the infested stores and portions of the means of conveyance.

(ii) If the means of conveyance is to leave the territorial limits of the United States directly for a port in another country within 24 hours of such order, the inspector may suspend compliance with the fumigation requirement pending departure from the United States. Pending fumigation or departure, the inspector may seal the openings of infested compartments, packages, or articles, if in his opinion the action is necessary to prevent plant pest dissemination while the means of conveyance remains in the teritorial limits of the United States, as authorized in § 330.110. The inspector may extend the 24-hour period to 48 hours, if, in his judgment, such extension is warranted by plans of the owner to remove the means of conveyance from the territorial limits of the United States within the extended period, the inability of the contractor to begin fumigation within the 24-hour period, or other reason deemed valid by the inspector. Further extension shall be given only under authority of the Deputy Administrator. Pending compliance with the requirement of fumigation, or the departure from the territorial limits of the United States directly for a port in another country, no stores, laundry, furnishings or equipment, or other articles or products whether in cargo or stores, shall be unloaded from the means of conveyance except as authorized by the inspector and under conditions prescribed by him. The owner of an infested means of conveyance under notice for fumigation which leaves the territorial limits of the United States without fumigation should arrange for the eradication of the infestation before returning to the same or another port in the United States. Upon return to a port in the United States and unless the infestation has been eliminated to the satisfaction of the inspector, the means of conveyance shall be subject to fumigation immediately upon arrival in the United States. Unloading or landing of any product or article shall not be permitted pending compliance with the fumigation requirement, except as authorized by the inspector and under conditions prescribed by him.

(iii) If the means of conveyance is to remain at the port where the infestation was found or is to be moved to another port in the United States, the inspector shall prescribe and supervise the application of the remedial measures at the port where the infestation is found, as provided in this paragraph, or he may authorize the means of conveyance to be moved to another port for fumigation or the application of other remedial measures under safeguards prescribed by him.

(iv) In all instances where the inspector prescribed procedures concerned with the application of remedial measures which involve (*a*) withholding permission to discharge articles or products; (*b*) permission to discharge after such permission has been withheld; (*c*) discontinuance of discharging; or (*d*) resumption of discharging after it has been discontinued, the appropriate Customs officer shall be immediately notified in writing. The inspector shall also inform the Customs officers at the port where the infestation is found and at such other ports as may be necessary of the requirement for fumigation and/or permission to move coastwise to another U.S. port for fumigation or other remedial measures.

(2) *Infestation in cargo compartments of means of conveyance (except aircraft).* When infestation is found in

cargo compartments or in cargo of a means of conveyance, except aircraft, the inspector shall prescribe and supervise the application of such remedial measures as, in his opinion are necessary, with respect to the cargo and the portions of the means of conveyance which contain or contained or were contaminated by the infested cargo. If in the opinion of the inspector fumigation is the only available safeguard to eliminate the infestation, he shall order the owner to arrange for immediate fumigation of the infested portions of such means of conveyance and cargo. However, if such cargo compartments cannot be fumigated without fumigating the entire means of conveyance, the inspector may order the entire means of conveyance and cargo to be fumigated. The inspector shall notify the owner of the means of conveyance of such requirement and the owner shall arrange for immediate fumigation. Discharge of cargo shall be discontinued unless the inspector allows it to continue under safeguards to be prescribed by him. The provisions applicable to stores and storerooms in paragraph (d)(1) (ii) and (iii) of this section shall apply to cargo and cargo areas of such means of conveyance. Customs officers shall be informed as required in paragraph (d)(1)(iv) of this section.

(3) *Infestation in an aircraft.* If infestation is found in an aircraft, the inspector may apply seals as provided in § 330.110, and he may require such temporary safeguards as he deems necessary, including the discontinuance of further unloading or landing of any products or articles except as authorized by him. Upon finding such infestation in an aircraft the inspector shall promptly notify the Plant Protection and Quarantine Programs of all circumstances and the temporary safeguards employed, and the Plant Protection and Quarantine Programs will specify the measures for eliminating the infestation which will not be deleterious to the aircraft or its operating components. Any insecticidal application required shall be approved by the Deputy Administrator for use in aircraft. If the aircraft is to depart from the territorial limits of the United States within 24 hours after the infestation is found, the inspector shall permit such departure in lieu of the application of other measures and shall prior to departure break any seals that would prevent access to the aircraft or safe operation thereof. Other seals will remain intact at time of departure and shall be broken by the aircraft commander or a crew member upon his order only after the aircraft is beyond the territorial limits of the United States. Extension of the 24-hour period shall be given only under authority of the Deputy Administrator. The owner of the aircraft under notice of khapra beetle infestation which leaves the territorial limits of the United States before the infestation has been eradicated should arrange for eradication before returning the aircraft to the United States. Upon return to the United States, if the infestation is not eliminated to the satisfaction of the inspector, the aircraft shall be subject to the same disinfestation requirements and other safeguards immediately upon arrival in the United States. Customs officers shall be notified as required in paragraph (d)(1)(iv) of this section.

(4) *Precautions.* The owner of a means of conveyance required to be fumigated pursuant to this section shall arrange with a competent operator to apply the fumigant under the supervision of the inspector. The owner shall understand that if certain fumigants are used they may result in residues in or on foodstuffs which may render them unsafe for use as food items. He is hereby warned against such use unless as ascertains that the fumigated foodstuffs are fit for human consumption. It should also be understood by the owner that emergency measures prescribed by the inspector to safeguard against dissemination of infestation may have adverse effects on certain products and articles, and that the acceptance of fumigation as a requirement is an alternative to the immediate removal of the infested means of conveyance and any products and articles thereon, from the territorial limits of the United States. Products or articles in a means of conveyance, or compartments thereof, which may be exposed to methyl bromide or other remedial

measures and may be adversely affected thereby, may be removed from the means of conveyance or compartments thereof prior to the application of the remedial measures if in the opinion of the inspector this can be done without danger of plant pest dissemination and under conditions authorized by him, for additional inspection and/or application of effective remedial measures.

[24 FR 10825, Dec. 29, 1959, as amended at 25 FR 8989, Sept. 20, 1960; 32 FR 6339, Apr. 21, 1967; 36 FR 24917, Dec. 24, 1971]

§ 330.107 Costs.

All costs (including those incurred under § 330.106 by the government or the owner) incident to the inspection, handling, cleaning, safeguarding, treating, or other disposal of means of conveyance or products, articles, or plant pests under this part, except for the services of an inspector during regularly assigned hours of duty and at the usual places of duty, shall be borne by the owner.

CROSS REFERENCE: See note following § 330.105.

§ 330.108 Authority to issue administrative instructions.

The Deputy Administrator is authorized to issue the administrative instructions for which provision is made in the regulations in this part, for the purpose of preventing dissemination of plant pests into the United States or interstate. In addition, whenever the Deputy Administrator shall find that existing conditions as to pest risk involved in the movement of plant pests, means of conveyance, or other products or articles to which the regulations in this part apply, make it safe to modify by making less stringent the restrictions contained in any of such regulations, he shall publish such findings in administrative instructions, specifying the manner in which the regulations shall be made less stringent whereupon such modification shall become effective.

§ 330.109 Caution.

In applying treatments or taking other measures prescribed in administrative instructions or by the inspector, it should be understood that inexactness or carelessness may result in injury or damage.

§ 330.110 Seals.

(a) *Use authorized; form.* Whenever, in the opinion of the inspector, it is necessary, as a safeguard in order to prevent the dissemination of plant pests into the United States, or interstate, seals may be applied to openings, packages, or articles requiring the security provided by such seals. The words "openings, packages, or articles" shall include any form of container, shelf, bin, compartment, or other opening, package, or article which the inspector may have occasion to seal in lieu of more drastic action or otherwise, as a safeguard against plant pest dissemination. The seals may be automatic metal seals or labels or tags and will be provided by the Plant Protection and Quarantine Programs. When they consist of a label or tag, they will be printed in black ink on yellow paper and read substantially as follows: "Warning! The opening, package, or article to which this seal is affixed is sealed under authority of law. This seal is not to be broken while within the territorial limits of the United States except by, or under instructions of, an inspector."

(b) *Breaking of seals.* Seals may be broken: (1) By an inspector; (2) by a Customs officer for Customs purposes, in which case the opening, package, or article will be resealed with Customs seals; (3) by the owner or his agent when the means of conveyance, product, or article has left the territorial limits of the United States; (4) by any person authorized by the inspector or the Deputy Administrator under conditions specified by the inspector or Deputy Administrator. No person shall break seals applied under authority of this section except as provided in this paragraph. The movement into or through the United States, or interstate, of any means of conveyance or product or article on which a seal, applied under this paragraph, has been broken in violation of this paragraph is hereby prohibited, except as authorized by an inspector.

(c) *Notice of sealing.* When an inspector seals any opening, product or article, he shall explain the purpose of such action to the owner or his representative and shall present him with a written notice of the conditions under which the seal may be broken, if requested to do so.

[25 FR 8990, Sept. 20, 1960, as amended at 36 FR 24917, Dec. 24, 1971]

Subpart—Movement of Plant Pests

§ 330.200 Movement of plant pests regulated; permits required.

No person shall knowingly move any plant pest into or through the United States from any place outside thereof, or interstate, or knowingly accept delivery of any plant pest so moving unless such movement is authorized under permit under this part and is made in accordance with the conditions therein and the provisions in this part. The movement of snails and slugs, as well as other plant pests, is governed by such provisions. Biological specimens of plant pests, in preservative or dried, may be imported without further restriction under this part, but subject to inspection on arrival in the United States to confirm the nature of the material and freedom from risk of plant pest dissemination.

§ 330.201 Applications for permits to move plant pests.

(a) *Into or through the United States from any place outside thereof.* Only persons resident in the United States may apply for permits to move plant pests into the United States from any place outside thereof. Persons resident in the United States proposing such movement into the United States, or any person proposing movement through the United States, of any plant pests shall first make application for permits authorizing such movement by submitting to the Plant Protection and Quarantine Programs the form provided therefor by the Plant Protection and Quarantine Programs, or by submitting in the form of a letter or other written communication the following information insofar as is known to the applicant, for each kind of pest for which a permit is requested: (1) Scientific name of the pest, (2) stage, (3) quantity, (4) origin, (5) destination, (6) whether the pest is established in the State, Territory or other jurisdiction of destination in the United States, (7) method of shipment, (8) proposed port of first arrival in the United States, (9) approximate date of arrival, (10) number of parcels expected to be moved, (11) intended use, (12) measures to be employed to prevent danger of plant pest dissemination, and (13) method of final disposition. In addition, if host materials must necessarily accompany the plant pests, the application shall show the name of the host materials and the reasons it is necessary for them to accompany the plant pests. Applications for permits to move plant pests through the United States should state the name of the port of export instead of the information required by paragraph (a)(6) of this section. Any applicant for a permit to move plant pests into or through the United States from any place outside thereof will facilitate the consideration of his application by furnishing any additional information known to him concerning the economic importance of the pests and the justification for the movement.

(b) *Interstate (including interstate for export).* Persons proposing to move plant pests interstate shall first make application for permits authorizing such movement by submitting to the Plant Protection and Quarantine Programs the form provided therefor by the Plant Protection and Quarantine Programs or by submitting the required information in the form of a letter or other written communication showing all pertinent information specified in paragraph (a) of this section and also the approximate date of the movement, except that persons desiring to move plant pests interstate to a port in the United States for export to a place outside of the United States[1] shall use the form provided therefor by the Plant Protection and Quarantine Programs or submit to the Plant Protection and Quarantine Programs in the form of a letter or other written communication the following information for each kind of pest: Scientific name of the pest, stage, quantity, origin, destination, method of shipment, proposed port of export from the United States, approximate date of the movement, number of parcels to be moved, proposed use, and measures to be employed to prevent danger of plant pest dissemination during the interstate movement. However in case it is proposed to move interstate, within or from an area quarantined under §§ 301.38, 301.45, 301.48, 301.52, 301.63, 301.64, 301.72, 301.76, 301.77, 301.78, 301.79, 301.80, or 301.81 of this chapter any plant pest covered by said section, the application should be made to the Plant Protection and Quarantine Programs of the Animal and Plant Health Inspection Service of the Department. In any case the applicant for a permit will facilitate the consideration of his application by furnishing any additional information known to him concerning the economic importance of the pests and the justification for the movement.

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[1] Persons contemplating the shipment of plant pests to places outside the United States should make prior arrangements directly, or through the recipient, with the *Continued*

(Approved by the Office of Management and Budget under control number 0579-0054)

(44 U.S.C. 35)

[24 FR 10825, Dec. 29, 1959, as amended at 36 FR 24917, Dec. 24, 1971; 37 FR 10554, May 25, 1972; 48 FR 57466, Dec. 30, 1983]

§ 330.202 Consideration of applications for permits to move plant pests.

The Deputy Administrator, upon the receipt of an application, made in accordance with § 330.201 (a) or (b), for a permit for movement of a plant pest into or through the United States from any place outside thereof, or interstate, shall consider the application on its merits.

(a) *Consultation.* He may consult with any Federal officials, the appropriate officials of any State, Territory, or other jurisdiction in the United States in charge of research or regulatory programs relative to plant pests, and any other qualified governmental or private research laboratory, institution, or individual, for views on the danger of plant pest dissemination into the United States, or interstate, in connection with the movement proposed.

(b) *Inspection of premises.* The Deputy Administrator may inspect the site where plant pests are proposed to be handled in connection with or after their movement under permit to determine whether existing or proposed facilities will be adequate to prevent plant pest dissemination in case a permit is issued, provided that the person in possession thereof is the applicant or such inspection is otherwise authorized.

(Approved by the Office of Management and Budget under control number 0579-0054)

(44 U.S.C. 35)

[24 FR 10825, Dec. 29, 1959, as amended at 48 FR 57466, Dec. 30, 1983]

§ 330.203 Action on applications for permits to move plant pests; form of and conditions in permits.

The Deputy Administrator, having considered an application for permit to move a plant pest, shall approve or deny the application in accordance with § 330.204. If the application is denied, the applicant shall be furnished the reasons therefor. If the application is approved, the Deputy Administrator shall issue the permit including any conditions which, in the opinion of the Deputy Administrator, are necessary to prevent dissemination of plant pests into the United States or interstate. Such conditions may include requirements for inspection of the premises where the plant pests are to be handled, after their movement under the permits, to determine whether the facilities thereat are adequate to prevent plant pest dissemination and the conditions of the permit are otherwise being observed. Permits authorizing movement of plant pests

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country of destination for the receipt of the plant pests into the country of destination. Many countries have laws governing the movement of plant pests into those countries, and therefore it is advisable to make advance arrangements for attaching permits, etc., as may be required by the countries of destination.

through the United States will include shipping instructions as to routing, labelling, and similar requirements as conditions of the permits. Any applicable conditions prescribed in administrative instructions may be incorporated in a written permit by citation, but shall be applicable whether or not so cited. The Deputy Administrator may, prior to the issuance of the permit, require the applicant to agree in writing to the conditions under which the plant pests will be safeguarded. The permits may be issued in a prescribed form or in letter form, or a combination thereof. A permit without conditions may be issued orally.

§ 330.204 Denial or cancellation of permits; reconsiderations.

(a) The Deputy Administrator will deny an application for a permit to move a plant pest when, in his opinion, such movement would involve a danger of dissemination of the pest. Danger of plant pest dissemination may be deemed to exist when:

(1) No acceptable safeguards adequate to prevent plant pest dissemination can be arranged;

(2) The destructive potential of the plant pest to plants, and parts and products thereof, should it escape despite proposed safeguards, outweighs the probable benefits to be derived from the proposed movement and use of the pest;

(3) The applicant, as a previous permittee, failed to maintain the safeguards or otherwise observe the conditions prescribed in a previous permit and failed to demonstrate his ability or intent to observe them in the future;

(4) The movement is adverse to the conduct of an eradication, suppression, control, or regulatory program of the Animal and Plant Health Inspection Service; or

(5) The movement is objected to in writing by an appropriate official of a State, Territory or possession, or the District of Columbia on the ground it will involve a danger of dissemination of the plant pest into the State, Territory or possession, or District.

(b) The Deputy Administrator may cancel any outstanding permit whenever:

(1) Information is received subsequent to the issuance of the permit of circumstances that constitute cause for the denial of an application for permit under paragraph (a) of this section; or

(2) The permittee has not maintained the safeguards or otherwise observed the conditions specified in the permit or in any applicable regulations or administrative instructions.

(c) Any person denied a permit, or whose permit has been canceled, may request the Deputy Administrator in person or in writing for a reconsideration, and may submit any additional information he may have to support the original application.

§ 330.205 Disposal of plant pests when permits are canceled.

When an outstanding permit for the movement of a plant pest is canceled by the Deputy Administrator and not reinstated under § 330.204(c), the further movement of the plant pest covered thereby into or through the United States, or interstate, is prohibited by the Federal Plant Pest Act unless authorized in another permit. The permittee should arrange for disposal of the plant pest involved in a manner satisfactory to the Deputy Administrator to prevent plant pest dissemination. The Deputy Administrator may, whenever he deems it necessary as an emergency measure in order to prevent the dissemination of any plant pest new to or not theretofore known to be widely prevalent or distributed within and throughout the United States, seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of, in such manner as he deems appropriate, any plant pest which is moving without compliance with any conditions in the permit or the provisions of this part or after the permit has been canceled.

§ 330.206 Permits for plant pest movement associated with National Defense projects.

The Deputy Administrator will facilitate research associated with National Defense projects through issuance of permits for movement of plant pests for such research, upon receiving assurance satisfactory to him that adequate safeguards will surround utilization of the plant pests to prevent their dissemination.

§ 330.207 Permits for movement of organisms issued by other agencies.

Inspectors shall recognize permits for the movement of organisms issued under other acts by other Federal agencies. When such organisms are also plant pests, any further conditions of movement to carry out the purposes of the Federal Plant Pest Act which have been prescribed in administrative instructions, or in correspondence concerning a single shipment, shall be complied with but no additional permit will be required under this part.

§ 330.208 Courtesy permits.

The Deputy Administrator may issue permits for the movement into or through the United States, or interstate, or organisms which are not subject to regulation under the Federal Plant Pest Act or any other act, as a courtesy to facilitate movement when the movement might otherwise be impeded because of the similarity of the organisms with others regulated under the Federal Plant Pest Act. He may likewise issue such permits on behalf of any agency requesting such action as a courtesy to facilitate movement for organisms not subject to regulation under the Federal Plant Pest Act but subject to regulation under some other act.

§ 330.209 Permits for means of conveyance.

No permit shall be required for movement into or through the United States from any place outside thereof, or interstate, of a means of conveyance unless the primary purpose of such movement of the means of conveyance is to move plant pests.

§ 330.210 Packing materials and containers for plant pest movement; host materials.

Plant pests moved into or through the United States, or interstate, must be free of soil, except when the Deputy Administrator approves in the permit the movement of soil with the plant pest. Subject to this exception, only approved packing materials are to be employed in the shipment of plant pests. Approved packing materials for the movement of plant pests under this part will be prescribed in administrative instructions or approved in specific cases by the Deputy Administrator. Such actions will be coordinated with and may supplement any requirements of the Post Office Department governing packing and packaging of any materials for movements covered by the postal laws and regulations. All containers shall be stoutly constructed so as to prevent breakage in transit and danger of plant pest dissemination and shall be labeled in accordance with § 330.211. The Deputy Administrator may allow the movement of host materials with plant pests under permits when they must necessarily accompany the pests, although such movement is otherwise barred under the Plant Quarantine Act.

§ 330.210a Administrative instructions listing approved packing materials for plant pests.

(a) The following materials are approved as packing materials for use with any shipment of plant pests in accordance with § 330.210:

(1) Absorbent cotton or processed cotton padding free of cottonseed.

(2) Cellulose materials.

(3) Excelsior.

(4) Felt.

(5) Ground peat (peat moss).

(6) Paper or paper products.

(7) Phenolic resin foam.

(8) Sawdust.

(9) Sponge rubber.

(10) Thread waste; twine; or cord.

(11) Vermiculite.

(b) Advance approval for the use of any other packing material for any specific movement should be obtained from the Deputy Administrator.

§ 330.211 Labelling of plant pests for movement under permits.

(a) *Interstate movement.* For interstate movements of plant pests a label shall be attached to each parcel containing the pests as evidence that the movement of the plant pests is authorized. Such label shall also disclose the contents of the parcel.

(b) *Movement into or through the United States from places outside thereof by mail or cargo.* (1) When a permit authorizing the movement of plant pests into the United States from any place outside thereof is issued to an applicant under this part, it will be accompanied by distinctive labels, with instructions for their use by the foreign shipper. Such labels will be issued in quantity sufficient to permit attaching one to each parcel to be moved. The labels will direct the parcels to specified inspection stations of the Plant Protection and Quarantine Programs, or other designated points, for clearance. The stations will be notified by the Deputy Administrator in advance of the expected arrival of the plant pests. Plant pests so moved by mail may be refused entry unless the containers thereof bear such labels. Cargo shipments of plant pests so moved may be refused entry unless they bear such labels or are otherwise plainly marked to identify the contents.

(2) Any labelling requirements with respect to the movement of plant pests through the United States will be included in shipping instructions issued as conditions of the permits.

(c) *Misuse of labels.* No labels unused in accordance with the terms of the permit may be used for the movement of any other plant pest. The Federal Plant Pest Act provides a penalty[2] for the misuse of labels under this part. Any unauthorized movement of plant pests under a label shall be refused by the inspector, and the plant pests so moved may be destroyed or otherwise dealt with as set out in § 330.106 if deemed necessary as an emergency measure under that section.

(Approved by the Office of Management and Budget under control number 0579-0054)

(44 U.S.C. 35)

[24 FR 10825, Dec. 29, 1959, as amended at 48 FR 57466, Dec. 30, 1983]

§ 330.212 Movement of plant pests by baggage.

Persons proposing to move plant pests into or through the United States from any place outside thereof, or from any Territory or possession into or through any other Territory or possession, or the Continental United States, by baggage, shall show the permit authorizing the movement to the inspector upon arrival at the port where the baggage is inspected. The conditions specified for the movement must be observed. The inspector will insure that the movement is handled in accordance with the terms of the permit. If it is necessary to move the plant pest to another place for clearance, the owner will be responsible for all costs incidental to such forwarding. Pending forwarding, the inspector will specify and supervise the application of safeguards against danger of plant pest dissemination and may retain custody of the pests until forwarded.

Subpart—Movement of Soil, Stone, And Quarry Products

§ 330.300 Soil from foreign countries or Territories or possessions.[1]

No soil shall be moved into or through the United States from any place outside thereof or from any Territory or possession into or through any other Territory or possession or the Continental United States, whether the soil is moved as such or incidentally adhering to means of conveyance or other articles, except as authorized in § 318.60, § 319.37-16a, or § 319.69 of this chapter, or this subpart. However this section shall not apply to the movement of soil from Mexico through Mexican Border ports, which movement is subject to the requirements in Part 320 of this chapter and, as applicable, §§ 319.37-16a and 319.69 of this chapter.

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[2] Section 108 of the Federal Plant Pest Act provides: "Any person who violates section 103 of this act, or any regulation promulgated under this act, or who forges, counterfeits, or without authority from the Secretary uses, alters, or defaces any permit or other document provided for by this act or the regulations thereunder, shall be guilty of a misdemeanor and shall be punished by a fine not exceeding $500, or by imprisonment not exceeding one year, or both."

[1] The movement of soil from Puerto Rico into or through any other State, Territory, or District of the United States is also subject to the provisions of the imported fire ant quarantine and regulations contained in 7 CFR 301.81 *et seq.*

(a) *Permits authorized.* The Deputy Administrator may issue permits under this section for movements of soil not governed by § 318.60, § 319.37-16a, or § 319.69, or Part 320 of this chapter, for research, analytical, religious, ceremonial, patriotic, or similar purposes, or such other purposes as he shall deem consistent with the objectives of this part, specifying in the permit or in the related correspondence, the safeguards, including methods of treatment, or other conditions which he deems necessary for the purpose of preventing the dissemination of plant pests into the United States or interstate. Whenever it is possible to formulate a general rule specifying such conditions, it shall be promulgated in administrative instructions and the applicable provisions thereof may be incorporated into a permit by citation, but shall be applicable whether or not so cited.

(b) *Application for permits.* Only persons resident in the United States may apply for permits under this section to move soil into the United States from any place outside thereof, or from any territory or possession into or through any other Territory or possession or the Continental United States. Persons resident in the United States contemplating such movements, or any persons contemplating movement through the United States, of soil under this section shall first make application for permits authorizing such movement by submitting to the Plant Protection and Quarantine Programs the form provided therefor by the Plant Protection and Quarantine Programs or by submitting, in the form of a letter or other written communication, the following information: Origin of the shipment, destination, quantity, method of shipment, proposed port of first arrival in the United States, port of export (if applicable), approximate date of arrival in the United States, intended use, measures to be employed to prevent danger of plant pest dissemination, method of final disposition, and the number of parcels expected to be moved. In acting upon the application for permits for such movement of soil, the Deputy Administrator will follow the procedures outlined in § 330.202 for the consideration of applications for permits to move plant pests insofar as they are applicable.

(c) *Issuance of permits; conditions of permits.* Upon the approval of an application for a permit authorizing the movement of soil under this section, the permit will be issued. The permit may contain any conditions which are necessary, in the opinion of the Deputy Administrator, to prevent dissemination of plant pests into the United States or interstate, including conditions with respect to routing, packing, and labeling of the soil. The Deputy Administrator may require the applicant to agree in writing to such conditions prior to the issuance of the permit. The importer will receive, as a part of the permit, information on the manner in which the importation is to be made. A permit without conditions may be issued orally.

(d) *Containers; labels.* All containers for soil moved under this section shall be stoutly constructed so as to prevent breakage in transit and danger of plant pest dissemination and shall be appropriately labeled as to contents. If the soil is moved by mail, special mailing labels will be issued to the importer, with instructions for their use, which he is to send to the foreign shipper. The quantity of mailing labels issued will be sufficient for the foreign shipper to attach one to each parcel moved by mail. Such mailing labels will indicate to the postal and the plant quarantine officials that the movement is authorized under the conditions specified in this permit. Importations arriving by mail without labels will be subject to refusal of entry into the United States, or interstate movement, by the inspector unless treated, at the expense of the owner, in a manner to remove danger of plant pest dissemination. The Deputy Administrator may issue mailing labels for movement into or through the United States from any place outside thereof, or from any Territory or possession into or through any other Territory or possession of the continental United States, of earth other than soil when the movement might otherwise be impeded because of the similarity to soil subject to this section.

(Approved by the Office of Management and Budget under control number 0579-0054)

(Secs. 105, 106, 71 Stat. 32, 33 (7 U.S.C. 150dd, 150ee); 7 CFR 2.17, 2.51, 371.2)

[24 FR 10855, Dec. 29, 1959, as amended at 47 FR 36103, Aug. 19, 1982; 48 FR 57466, Dec. 30, 1983; 49 FR 48682, Dec. 14, 1984]

§ 330.300a Administrative instructions exempting soil from parts of Canada from certain restrictions.

Soil of Canadian origin except soil from Newfoundland and the Land District of South Saanich on Vancouver Island of British Columbia may be moved into or through the United States from Canada free from the permit requirements of § 330.300 and the release requirements of § 330.105 but subject to inspection under § 330.105 and disposal under § 330.106, if the inspection discloses any plant pest new to or not theretofore widely prevalent or distributed within and throughout the United States. Such soil is also subject to all applicable requirements under Part 319 of this chapter.[1]

[34 FR 13148, Aug. 14, 1969]

§ 330.301 Stone and quarry products from certain areas in Canada.

Stone and quarry products from areas in Canada infested with the gypsy moth may be moved from Canada into or through the United States only into or through areas regulated by the gypsy moth and browntail moth quarantine and regulations in §§ 301.45, 301.45-1 et seq. of this chapter; or into or through other areas in the United States under conditions paralleling the requirements of said quarantine and regulations for movement of stone and quarry products from said regulated areas into such other areas of the United States.

§ 330.302 Domestic movements of earth (including soil), stone, etc.

The interstate movement from regulated areas in the Continental United States of earth (including soil), stone, quarry products, and similar substances is regulated in §§ 301.45, 301.48, 301.72, 301.77, 301.78, 301.79, 301.80, and 301.81 of this chapter and may be made only in accordance with the requirements of these sections. Any such movement of earth, stone, quarry products and similar substances which may hereafter be regulated in Part 301 of this chapter may likewise be made only in accordance with the requirements of said part. The interstate movement of such materials of United States origin, from any place in the Continental United States, is not regulated by this part.

Subpart—Garbage

§ 330.400 Garbage; quarantine; regulations on storage and movement on certain means of conveyance.

(a) Hawaii, Puerto Rico, the Virgin Islands of the United States, Guam, and all other Insular Possessions of the United States are hereby quarantined, and the movement therefrom to other parts of the United States of garbage is hereby regulated as provided in this section to prevent the spread of the dangerous plant diseases and insect pests specified in §§ 318.13, 318.58, and 318.82 or other plant pests which exist in such areas. Garbage which is on or unloaded from any means of conveyance arriving in the places listed below is subject to general surveillance for compliance with this section by Animal and Plant Health Inspection Service inspectors and to such disposal measures as authorized by section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd), section 10 of the Plant Quarantine Act of 1912, as amended (7 U.S.C. 164a), section 2 of the Act of February 2, 1903, as amended (21 U.S.C. 111), and section 306 of the Act of July 17, 1930, as amended (19 U.S.C. 1306), to prevent the dissemination of plant pests and livestock or poultry diseases:

(1) The United States from any place outside thereof (except garbage

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[1] Sod from Canada is regulated by § 319.37-5 of this chapter.

derived from stores obtained only in the continental United States or Canada on board vessels or aircraft that move solely between continental United States ports or between continental United States ports and Canadian ports); (2) the continental United States from Hawaii or any territory or possession; (3) any territory or possession from any other territory or possession or from Hawaii; and (4) Hawaii from any territory or possession.

(b)(1) All garbage regulated in paragraph (a) of this section shall be contained in tight, leak-proof covered receptacles (inside the guard rail on vessels) during storage on board such means of conveyance while in the territorial waters or otherwise within the territory of the United States. Such garbage shall not be unloaded from such means of conveyance in the United States unless such garbage is removed in tight, leak-proof receptacles under the direction of an Animal and Plant Health Inspection Service inspector to an approved facility for incineration, sterilization, or grinding into an approved sewage system, under supervision by such an inspector, or such garbage is removed for other handling in such manner and under such supervision as may, upon request in specific cases, be approved by the Administrator as complying with the applicable laws for environmental protection and as adequate to prevent the dissemination into or within the United States of plant pests and livestock or poultry diseases.

(2) Application for approval of a facility or sewage system may be made in writing by the authorized representative of any carrier or by the official having jurisdiction over the port or place of arrival of the means of conveyance, to the Administrator, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250. The application shall be endorsed by the operator of the facility or sewage system. Approval will be granted if the Administrator determines that the requirements set forth in this section are met. Approval may be denied or withdrawn at any time, if the Administrator determines that such requirements are not met, after notice of the proposed denial or withdrawal of the approval and the reasons therefor, and an opportunity to demonstrate or achieve compliance with such requirements, has been afforded to the operator of the facility or sewage system and to the applicant for approval. However, approval may also be withdrawn without such prior procedure in any case in which the public health, interest, or safety requires immediate action, and in such case, the operator of the facility or sewage system and the applicant for approval shall promptly thereafter be given notice of the withdrawal and the reasons therefor and an opportunity to show cause why the approval should be reinstated.

(c) The Plant Protection and Quarantine Programs and Veterinary Services, Animal, and Plant Health Inspection Service, will cooperate with other Federal, State, and local agencies responsible for enforcing other statutes and regulations governing disposal of the garbage to the end that such disposal shall be adequate to prevent the dissemination of plant pests and livestock or poultry diseases and comply with applicable laws for environmental protection. The inspectors, in maintaining surveillance over garbage movements and disposal, shall coordinate their activities with the activities of representatives of the Environmental Protection Agency and other Federal, State, and local agencies also having jurisdiction over such garbage.

(d) As used in this section:

(1) "Sterilization" means cooking garbage at 212° F. for 30 minutes and disposal of the residue by burying in a landfill, except that the burial provisions do not apply to materials extracted from the residue after cooking and determined by the Administrator to be unsuitable for use as food or as soil additives.

(2) "Incineration" means to reduce the garbage to ash by burning;

(3) "Approved sewage system" means a sewage system approved by the Administrator, Animal and Plant Health Inspection Service, upon his determination that the system is designed and operated in such a way as to preclude the discharge of sewage effluents onto land surfaces or into la-

goons or other stationary waters, and otherwise is adequate to prevent the dissemination of plant pests and livestock or poultry diseases, and that is certified by an appropriate Government official as currently complying with the applicable laws for environmental protection.

(4) "Approved facility" means a facility approved by the Administrator, Animal and Plant Health Inspection Service, upon his determination that it has equipment and uses procedures that are adequate to prevent the dissemination of plant pests and livestock or poultry diseases, and that it is certified by an appropriate Government official as currently complying with the applicable laws for environmental protection.

(5) "Carrier" means the principal operator of a means of conveyance.

(Information collection requirements contained in paragraph (b) were approved by the Office of Management and Budget under control number 0579-0054)

(Sec. 106, 71 Stat. 33 (7 U.S.C. 150ee); secs. 8 and 9, 37 Stat. 318, as amended (7 U.S.C. 161, 162); sec. 102, 58 Stat. 735, as amended (7 U.S.C. 147a); sec. 306, 46 Stat. 689, as amended (19 U.S.C. 1306); sec. 2, 32 Stat. 792, as amended (21 U.S.C. 111); sec. 11, 23 Stat. 32, as added at 58 Stat. 734, as amended (21 U.S.C. 114a) 76 Stat. 663 (7 U.S.C. 450); secs. 101, 102, 83 Stat. 852, 853 (42 U.S.C. 4331, 4332); 39 FR 32319-32321; 37 FR 28464, 28477; 38 FR 19141); 44 U.S.C. 35)

[39 FR 32320, Sept. 6, 1974, as amended at 43 FR 39954, Sept. 8, 1978; 45 FR 80268, Dec. 4, 1980; 48 FR 57466, Dec. 30, 1983]

PART 331—PLANT PEST REGULATIONS GOVERNING INTERSTATE MOVEMENT OF CERTAIN PRODUCTS AND ARTICLES [RESERVED]

PART 351—IMPORTATION OF PLANTS OR PLANT PRODUCTS BY MAIL

Sec.

351.1 Joint treatment generally.
351.2 Location of inspectors.
351.3 Procedure on arrival.
351.4 Records.
351.5 Return or destruction.
351.6 Packages in closed mail dispatches.
351.7 Regulations governing importation by mail of plant material for immediate export.

CROSS REFERENCE: For customs regulations governing importation of plants and plant products, see 19 CFR Part 12.

AUTHORITY: Secs. 7 and 9, 37 Stat. 317-318, secs. 103, 105, 106, 71 Stat. 32-33; 7 U.S.C. 150bb, 150dd, 150ee, 160, 162.

§ 351.1 Joint treatment generally.

Under various orders, quarantines, and regulations promulgated by the Administrator of the Animal and Plant Health Inspection Service under authority of the Plant Quarantine Act of August 20, 1912 (37 Stat. 315-319, 7 U.S.C. 151 et seq.), as amended, and the Federal Plant Pest Act of May 23, 1957 (71 Stat. 31-35; 7 U.S.C. 150aa-150jj), the entry into the United States of certain plants, plant products, and soil is prohibited or restricted. As an aid in enforcing these or subsequent orders, quarantines, and regulations, provisions have been made by the Plant Protection and Quarantine Programs of the United States Department of Agriculture, concurrently with the Postal and Customs Services, to insure closer inspection of such importations.

[24 FR 9923, Dec. 9, 1959, as amended at 36 FR 24917, Dec. 24, 1971; 37 FR 10554, May 25, 1972]

§ 351.2 Location of inspectors.

Inspectors of the Plant Protection and Quarantine Programs and customs officers are stationed at the following locations:

Anchorage, Alaska, Arlington, Va., Atlanta, Ga., Baltimore, Md., Baton Rouge, La., Blaine, Wash., Boston, Mass., Brownsville, Tex., Buffalo, N.Y., Calexico, Calif., Chantilly, Va., Charleston, S.C., Charlotte Amalie, St. Thomas, V.I., Chicago, Ill., Christiansted, St. Croix, V.I., Cleveland, Ohio., Corpus Christi, Tex., Dallas, Tex., Del Rio, Tex., Detroit, Mich., Douglas, Ariz., Dover, Del., Duluth, Minn., Eagle Pass, Tex., El Paso, Tex., Galveston, Tex., Hidalgo, Tex., Hilo, Hawaii, Hoboken, N.J., Honolulu, Hawaii, Houston, Tex., Jacksonville, Fla., Jamaica, L.I., N.Y., Key West, Fla., Laredo, Tex., McGuire AFB, N.J., Memphis, Tenn., Miami, Fla., Milwaukee, Wis., Mobile, Ala., New Orleans, La., New York, N.Y., Newport News, Va., Nogales, Ariz., Norfolk, Va., Pensacola, Fla., Philadelphia, Pa., Port Arthur, Tex., Port Canaveral, Fla., Port Everglades, Fla., Portland, Oreg., Presidio, Tex., Progreso, Tex., Ramey AFB, P.R., Roma, Tex., Rouses Point, N.Y., St. Paul, Minn., San Antonio, Tex., San Diego, Calif., San Francisco, Calif., San Juan, P.R., San Luis, Ariz., San Pedro, Calif., San Ysidro, Calif., Savannah, Ga., Seattle, Wash., Tampa, Fla., Toledo, Ohio, Washington, D.C., West Palm Beach, Fla., Wilmington, N.C.

[28 FR 5203, May 24, 1963, as amended at 36 FR 24917, Dec. 24, 1971]

§ 351.3 Procedure on arrival.

All parcel post or other mail packages from foreign countries which, either from examination or external evidence, are found or are believed to contain plants or plant products, shall be dispatched for submission, or actually submitted, to the plant quarantine inspector at the most accessible location listed in § 351.2. The inspector shall pass upon the contents under the Plant Quarantine Act and Federal Plant Pest Act and with the cooperation of the customs and postal officers either

(a) Release the package from further plant quarantine examination and endorse his decision thereon; or

(b) Divert it to the Plant Quarantine Station at Washington, D.C., Brownsville, Tex., Hoboken, N.J., Honolulu, Hawaii, Jamaica, L.I., N.Y., Laredo, Tex., Miami, Fla., New Orleans, La., San Francisco, Calif., San Juan, P.R., San Pedro, Calif., or Seattle, Wash., for whatever disposition is deemed warranted. If so diverted, the plant quarantine inspector shall attach to the package the yellow and green special mailing tag addressed to the proper quarantine station. A package so diverted shall be accompanied by customs card Form 3511 and transmitted to the appropriate Customs office for referral to the Plant Quarantine Station. Envelopes containing customs card Form 3511 addressed to the collector of customs, New York, N.Y., shall contain a notation that the material is to be referred to the Plant Protection and Quarantine Programs, Hoboken, N.J.

[24 FR 9923, Dec. 9, 1959, as amended at 28 FR 5204, May 24, 1963, as amended at 36 FR 24917, Dec. 24, 1971]

§ 351.4 Records.

The customs officers at Washington, D.C., Brownsville, Tex., Hoboken, N.J., Honolulu, Hawaii, Jamaica, L.I., N.Y., Laredo, Tex., Miami, Fla., New Orleans, La., San Francisco, Calif., San Juan, P.R., San Pedro, Calif., or Seattle, Wash., shall keep a record of such packages as may be delivered to representatives of the Department of Agriculture, and upon the return thereof shall prepare a mail entry to accompany the dutiable package and deliver it to the postmaster for delivery or onward dispatch or in appropriate cases subject the shipment to formal customs entry procedure.

[28 FR 5204, May 24, 1963]

§ 351.5 Return or destruction.

Where the plant quarantine inspector requires the entire shipment to be returned to the country of origin as a prohibited importation (in which event he shall endorse his action thereon) and delivers the shipment to the collector of customs, the collector shall in turn deliver it to the postmaster for dispatch to the country of origin. If, upon examination, the plant material is deemed dangerous to plant life, the collector of customs shall permit the plant quarantine inspector to destroy immediately both the container and its contents. In either case the plant quarantine inspector shall notify the addressee of the action taken and the reason therefor. If the objectionable plant material forms only a portion of the contents of the mail package and in the judgment of the inspector the package can safely be delivered to the addressee, after removing and destroying the objectionable material, such procedure is authorized. In the latter case the inspector shall place in the package a memorandum (Form AQI-387) informing the addressee of the action taken by the inspector and describing the matter which has been seized and destroyed and the reasons therefor.

[24 FR 9923, Dec. 9, 1959, as amended at 36 FR 24917, Dec. 24, 1971]

§ 351.6 Packages in closed mail dispatches.

The foregoing instructions shall be followed in the treatment of packages containing plants or plant products received in closed mail dispatches made up for transmission directly to a post office located at a customs port at which no plant quarantine inspector is stationed. Such packages (accompanied by customs card Form 3511) shall be forwarded by the collector of customs through the postmaster to the most accessible location listed in § 351.2 for appropriate treatment in the manner hereinbefore provided. This procedure shall also be followed in respect to such packages which are forwarded to unlisted post offices from the post office of original receipt, without having received plant quarantine examination. Packages discovered at post offices where no customs officer is located shall be forwarded by the postmaster under his official penalty envelope addressed to the collector of customs at the most accessible location listed for appropriate treatment as prescribed herein.

[24 FR 9923, Dec. 9, 1959, as amended at 36 FR 24917, Dec. 24, 1971]

§ 351.7 Regulations governing importation by mail of plant material for immediate export.

To collectors of customs and others concerned:

(a) Shipments of plant material may be imported by mail free of duty for immediate exportation by mail subject to the following regulations, which have been approved by the Department of Agriculture and the Post Office Department:

(1) Each shipment shall be dispatched in the mails from abroad, accompanied by a yellow and green special mail tag bearing the serial number of the permit for entry for immediate exportation or immediate transportation and exportation, issued by the United States Department of Agriculture, and also the postal form of customs declaration.

(2) Upon arrival, the shipment shall be detained by, or redispatched to, the postmaster at Washington, D.C. Brownsville, Tex., Hoboken, N.J., Honolulu, Hawaii, Jamaica, L.I., N.Y., Laredo, Tex., Miami, Fla., New Orleans, La., San Francisco, Calif., San Juan, P.R., San Pedro, Calif., or Seattle, Wash., as may be appropriate, according to the address on the yellow and green tag, and there submitted to the customs officer and the Federal quarantine inspector. The merchandise shall under no circumstances be permitted to enter the commerce of the United States.

(3) After inspection by the customs and quarantine officers, and with their approval, the addressee, or his authorized agent, shall repack and readdress the mail parcel under customs supervision; affix to the parcel the necessary postage, and comply with other mailing requirements, after which the parcel shall be delivered to the postmaster for exportation by mail pursuant to 19 CFR 9.11(a). The contents of the original parcel may be subdivided and exported in separate parcels in like manner.

(4) It will not be necessary to issue a customs mail entry nor to require formal entry of the shipments.

(5) The mail shipments referred to shall be accorded special handling only at the points specified in paragraph (a)(2) of this section.

(6) The foregoing procedure shall not affect the movement of plant material in the international mails in transit through the United States.

[24 FR 9923, Dec. 9, 1959, as amended at 28 FR 5204, May 24, 1963]

PART 352—PLANT QUARANTINE SAFEGUARD REGULATIONS

Sec.

352.1 Definitions.
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352.12 Baggage.
352.13 Certain conditions under which change of Customs entry or diversion is permitted.
352.14 Costs.
352.15 Caution.
352.16—352.29 [Reserved]
352.30 Administrative instructions: Certain oranges, tangerines, and grapefruit from Mexico.

AUTHORITY: Sec. 9, 37 Stat. 318; secs. 103 and 106, 71 Stat. 32, 33; 56 Stat. 40, as amended; 7 U.S.C. 162, 150bb, 150ee, 149. Interpret or apply secs. 1, 5, and 7, 37 Stat. 315-317, as amended; secs. 105 and 107, 71 Stat. 32, 34; sec. 501, 65 Stat. 290; and 64 Stat. 561; 7 U.S.C. 154, 159, 160, 150dd, 150ff, 2260; 31 U.S.C. 483a, unless otherwise noted.

SOURCE: 25 FR 1929, Mar. 5, 1960, unless otherwise noted.

§ 352.1 Definitions.

(a) This part may be cited by the short title: "Safeguard Regulations." This title shall be understood to include both the regulations and administrative instructions in this part.

(b) Words used in the singular form in this part shall be deemed to import the plural and vice versa as the case may demand. For purposes of this part, unless the context otherwise requires, the following terms shall be construed, respectively, to mean:

(1) *Plant Protection and Quarantine Programs.* The Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, of the United States Department of Agriculture.

(2) *Deputy Administrator.* The Deputy Administrator of the Plant Protection and Quarantine Programs, or any officer or employee of the Plant Protection and Quarantine Programs to whom authority has heretofore been delegated or may hereafter be delegated to act in his stead.

(3) *Inspector.* A properly identified employee of the United States Department of Agriculture or other person authorized by the Department to enforce the provisions of the Federal Plant Pest Act and the Plant Quarantine Act.

(4) *Customs.* The Bureau of Customs, United States Treasury Department, or, with reference to Guam, the Customs Office of the Government of Guam.

(5) *Person.* Any individual, corporation, company, association, firm, partnership, society, or joint stock company.

(6) *Owner.* The owner, or his agent (including the operator of a carrier), having responsible custody of a plant, plant product, plant pest, soil, or other product or article subject to this part.

(7) *Carrier; means of conveyance.* Automobile, truck, animal-drawn vehicle, railway car, aircraft, ship, or other means of transportation.

(8) *Ship.* Any means of transportation by water.

(9) *Stores and furnishings.* Plants and plant products for use on board a carrier; e.g. as food or decorative material.

(10) *Plant pest.* "Plant pest" means any living stage of: Any insects, mites, nematodes, slugs, snails, protozoa, or other invertebrate animals, bacteria, fungi, other parasitic plants or reproductive parts thereof, viruses, or any organisms similar to or allied with any of the foregoing, or any infectious substances, which can directly or indirectly injure or cause disease or damage in any plants or parts thereof, or any processed, manufactured, or other products of plants.

(11) *Plants and plant products.* Nursery stock, other plants, plant parts, roots, bulbs, seeds, fruits, nuts, vegetables, and other plant products, and any product constituted, in whole or in part, of plant material which has not been so manufactured or processed as to eliminate pest risk.

(12) *Soil.* The loose surface material of the earth in which plants grow, in most cases consisting of disintegrated rock with an admixture of organic material and soluble salts.

(13) *Other product or article.* Any product or article of any character whatsoever (other than plants, plant products, soil, plant pests, and means of conveyance), which an inspector considers may be infested or infected by or contain a plant pest.

(14) *Prohibited or restricted product or article.* Any product or article as defined in paragraphs (b) (7) through (13) of this section of a kind which is prohibited or restricted importation into the United States under Part 319, 320, 321, or 330 of this chapter.

(15) *Prohibited.* Importation into the United States forbidden by Part 319, 320, 321, or 330 of this chapter.

(16) *Restricted.* Importation into the United States allowed only in accordance with provisions in Parts 319, 320, 321, and 330 of this chapter.

(17) *Immediate (export, trans-shipment, or transportation and exporta-*

tion). The period which, in the opinion of the inspector, is the shortest practicable interval of time between the arrival of an incoming carrier and the departure of the outgoing carrier transporting a consignment of prohibited or restricted products or articles.

(18) *Safeguard.* A procedure for handling, maintaining, or disposing of prohibited or restricted products and articles subject to this part so as to eliminate the risk of plant pest dissemination which the prohibited or restricted products and articles may present.

(19) *Plant Quarantine Act.* The act of August 20, 1912, as amended (37 Stat. 315, as amended; 7 U.S.C. 151 et seq.).

(20) *The Federal Plant Pest Act.* Title I of the Act of May 23, 1957 (Title I, 71 Stat. 31; 7 U.S.C. 150aa et seq.).

(21) *Brought in for temporary stay where unloading or landing is not intended.* Brought in by carrier but not intended to be unloaded or landed from such carrier. This phrase includes movement (i) departing from the United States on the same carrier directly from the point of arrival therein; and (ii) transiting a part of the United States before departure therefrom, and applies whether movement under Customs procedure is as residue cargo or follows some form of Customs entry.

(22) *Unloaded or landed for transshipment and exportation.* Brought in by carrier and transferred to another carrier for exportation from the same port, whether or not some form of Customs entry is made.

(23) *Unloaded or landed for transportation and exportation.* Brought in by carrier and transferred to another carrier for transportation to another port for exportation, whether or not some form of Customs entry is made.

(24) *Intended for importation but refused entry.* Brought in by carrier but (i) entry refused under Part 319, 320, 321, or 330 of this chapter after arrival but before unloading or landing and retained on board pending removal from the United States or other disposal, or (ii) entry refused under any of said parts after unloading or landing.

(25) *Intended for unloading and entry at a port other than the port of first arrival.* Brought in by carrier at a port for movement to the port of entry under residue cargo procedure of Customs.

(26) *Residue cargo.* Shipments authorized by Customs to be transported under the Customs bond of the carrier on which the shipments arrive, without entry being filed, for direct export from the first port of arrival, or to another port for entry or for direct export at that port without entry being required.

(27) *Port.* Any place designated by the President, Secretary of the Treasury, or Congress at which a Customs officer is assigned with authority to accept entries of merchandise, to collect duties, and to enforce the various provisions of the Customs and Navigation laws in force at that place.

(28) *Port of arrival.* Any port in the United States at which a prohibited or restricted product or article arrives.

(29) *Port of entry.* A port at which a specified shipment or means of conveyance is accepted for entry or admitted without entry into the United States.

(30) *Foreign trade zone.* A formally prescribed area containing various physical facilities located in or adjacent to ports of entry under the jurisdiction of the United States and established, operated, and maintained as a foreign trade zone pursuant to the Foreign-Trade Zones Act of June 18, 1934 (48 Stat. 998-1003; 19 U.S.C. 81a-81u), as amended, wherein foreign merchandise, as well as domestic merchandise, may be deposited for approved purposes. Movement into and from such area is subject to applicable customs, plant quarantine, and other Federal requirements.

(31) *United States.* The States, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands of the United States, and the territorial waters of the United States adjacent to those land areas.

(32) *Administrative instructions.* Published documents set forth in this part relating to the enforcement of this part, and issued under authority thereof by the Deputy Administrator.

[25 FR 1929, Mar. 5, 1960, as amended at 36 FR 24917, Dec. 24, 1971; 37 FR 10554, May 25, 1972]

§ 352.2 Purpose; relation to other regulations; applicability.

(a) The importation into the United States of certain plants, plant products, plant pests, soil, and other products and articles which may be infested or infected by, or contain, plant pests is prohibited or restricted by quarantines, orders, and other regulations in Parts 319, 320, 321, and 330 of this chapter, issued under authority of sections 1, 5, 7, and 9 of the Plant Quarantine Act, sections 103, 105, 106, and 107 of the Federal Plant Pest Act, the Mexican Border Act (7 U.S.C. 149), and related laws (31 483a; 7 U.S.C. 2260). Under said authorities it is hereby determined that it is not necessary to impose such prohibitions and restrictions upon plants, plant products, plant pests, soil, and other products and articles designated in said parts when they come within any of the following categories and are moved into the United States from any foreign country and handled in the United States in compliance with this part, and said categories of plants, plant products, plant pests, soil, and other products and articles are hereby excepted from said prohibitions and restrictions if they comply with this part, except as otherwise provided in this part: (1) Are brought in for temporary stay where unloading or landing is not intended; (2) are unloaded or landed for transshipment and exportation; (3) are unloaded or landed for transportation and exportation; (4) are intended for unloading and entry at a port other than the port of arrival. However, such determination and exception shall not apply to cotton and covers imported into the United States from any country for exportation or transshipment and exportation or transportation and exportation as provided in §§ 319.8, 319.8-1 et seq. of this chapter and such cotton and covers must comply with said sections in lieu of this part. Moreover, the applicable provisions of §§ 330.100 through 330.109 and 330.400 of this chapter shall continue to apply to products and articles subject to this Part 352.

(b) Prohibited or restricted products and articles offered for entry into the United States and refused such entry under Part 319, 320, 321, or 330 of this chapter shall be subject to the applicable provisions in this part with respect to their subsequent handling in this country.

(c)(1) The provisions in this part shall apply whether the controls over arrival, temporary stay, unloading, landing, transshipment and exportation, or transportation and exportation, or other movement or possession in the United States are maintained by entry or other procedures of the Bureau of Customs, U.S. Department of the Treasury, or in Guam by the Customs of the Government of Guam. Such provisions shall apply to arrivals in the United States, as defined in § 352.1(b)(31), including arrivals in a foreign trade zone in the United States to which admission is sought in accordance with the Customs Regulations in 19 CFR. Prohibited or restricted products and articles which have arrived in the United States and have been exported therefrom pursuant to this part, and which for any reason are returned to the United States are, upon arrival, again subject to the applicable requirements of this part.

(2) Any restrictions and requirements under this part with respect to the arrival, temporary stay, unloading, landing, transshipment, exportation, transportation and exportation, or other movement or possession in the United States of any product or article shall apply to any person who, respectively, brings into, maintains, unloads, lands, transships, exports, transports and exports, or otherwise moves or possesses in the United States such product or article, whether he is the person who was required to have a permit for the product or article or a subsequent custodian of such product or article, and failure to comply with all applicable restrictions and requirements under this part by any such person shall be deemed to be a violation of this part.

§ 352.3 Enforcement and administration.

(a) Plants, plant products, plant pests, soil, and other products and articles subject to the regulations in this part which are unloaded or landed, or otherwise brought or moved into or through the United States in contravention of this part may be seized, destroyed, or otherwise disposed of as authorized by section 10 of the Plant Quarantine Act (7 U.S.C. 164a), section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd), or the Mexican Border Act (7 U.S.C. 149). Any person who unloads or lands or otherwise brings or moves into or through the United States, any plants, plant products, plant pests, soil, or other products or articles subject to this part in any manner contrary to this part, shall be subject to prosecution under the applicable provisions of law.

(b) Whenever the Deputy Administrator of the Plant Protection and Quarantine Programs shall find that existing conditions of danger of plant pest escape or dissemination involved in the arrival, unloading, landing, or other movement, or possession in the United States of plants, plant products, plant pests, soil, or other products or articles subject to the regulations in this part, make it safe to modify by making less stringent the restrictions contained in any such regulation, he shall publish such findings in administrative instructions, specifying the manner in which the regulations shall be made less stringent with respect thereto, whereupon such modification shall become effective; or he may, upon request in specific cases, when the public interests will permit, authorize arrival, unloading, landing, or other movement, or possession in the United States under conditions that are less stringent than those contained in the regulations in this part.

(c) The Deputy Administrator also may set forth and publish, in administrative instructions, requirements and conditions for any class of products or articles supplemental to the regulations in this part, and may promulgate interpretations of this part.

(d) The Deputy Administrator shall employ procedures to carry out the purposes of this part which will impose a minimum of impediment to foreign commerce, consistent with proper precaution against plant pest dissemination.

§ 352.4 Documentation.

(a) *Manifest.* Immediately upon the arrival of a carrier in the United States the owner shall make available to the inspector for examination a complete manifest or other documentation from which the inspector may determine whether there are on board any prohibited or restricted products or articles subject to this part, other than accompanied baggage and mail.

(b) *Other documentation.* Any notifications, reports, and similar documentation not specified in the regulations in this part, but necessary to carry out the purpose of the regulations, will be prescribed in administrative instructions.

(c) *Procedure after examination of documents.* After examination of the carrier cargo manifest or other documentation the inspector may notify the owner and the Customs officer that certain products or articles on board the carrier are subject to this part and may not be unloaded or landed for any purpose pending plant quarantine inspection. In such case the owner shall not unload or land such products or articles without authorization by an inspector.

§ 352.5 Permit; requirement, form and conditions.

(a) *General.* (1) Permits are required for the arrival, unloading or landing, or other movement into or through the United States of plants, plant products, plant pests, and soil subject to this part. The permit may consist of a general authorization as set out in paragraph (b), (c), or (d) of this section or § 352.11, or it may be a specific permit. A specific permit may be formal or oral except as a formal permit is required by paragraph (c) or (e) of this section. The Deputy Administrator may in administrative instructions require specific or formal permits for any class of products or articles subject to this part.

(2) A formal permit may be issued in prescribed form, in letter form, or a combination thereof. A rubber stamp

impression or other endorsement made by the inspector on pertinent Customs documents covering the products or articles involved may constitute the formal permit in appropriate cases.

(b) *Permit for prohibited or restricted products or articles brought in for temporary stay where unloading or landing in the United States is not intended.* No permit other than the authorization contained in this paragraph shall be required for bringing into the United States any plants, plant products, plant pests, or soil subject to this part for temporary stay where unloading or landing in the United States is not intended, e.g., in connection with residue cargo movement under Customs procedure, or in connection with Customs entry for exportation or for transportation and exportation. This authorization also includes transshipment of products and articles under this paragraph from a carrier directly to another carrier of the same company when necessitated by an emergency or operating requirement and effected in accordance with safeguards prescribed in writing or orally by the inspector under § 352.10.

(c) *Permit for prohibited or restricted products or articles unloaded or landed for immediate transshipment and exportation, or immediate transportation and exportation.* When in the opinion of the inspector it is unnecessary to specify in a formal permit the safeguards required to prevent plant pest dissemination, plants, plant products, plant pests, or soil subject to this part may be unloaded or landed for immediate transshipment and exportation or for immediate transportation and exportation, as provided in § 352.10, with the approval of the inspector and no further permit than the authorization contained in this paragraph; otherwise a formal permit shall be required for such unloading or landing.

(d) *Permit for restricted products or articles moving as residue cargo from port of first arrival to port of entry.* Restricted plants, plant products, plant pests, or soil subject to this part arriving in the United States for movement under residue cargo procedures of Customs from a port of first arrival to another port for Customs entry into the United States may be allowed to so move without permit other than the authorization contained in this paragraph, if the inspector finds that apparently they can meet the applicable requirements of Parts 319, 320, 321, and 330 of this chapter at the port where entry is to be made; otherwise a formal permit shall be required for such movement. Such restricted products and articles shall become subject to the applicable permit and other requirements of Parts 319, 320, 321, and 330 of this chapter upon arrival at the port where Customs entry is to be made and shall not be unloaded or landed unless they comply with the applicable requirements.

(e) *Formal permits required for certain prohibited or restricted products or articles brought into a foreign trade zone.* A formal permit must be obtained to bring any prohibited or restricted plants, plant products, plant pests, or soil subject to the provisions in this part, into a foreign trade zone for storage, manipulation, or other handling, except for immediate transshipment and exportation or for immediate transportation and exportation. Special conditions to safeguard such storage, manipulation, or other possession or handling may be specified in the permit, and when so specified shall be in addition to any other applicable requirements of this part or the safeguards prescribed by the inspector or otherwise under this part.

§ 352.6 Application for permit and approval or denial thereof.

(a) *Plants and plant products.* Except as otherwise provided in this paragraph, any person desiring to unload or land, or otherwise move into or through the United States, any plants or plant products for which a specific permit is required by § 352.5, shall in the case of prohibited plants or plant products, and should in the case of restricted plants or plant products, in advance of arrival in the United States of the plants or plant products, submit an application for a permit to the Plant Protection and

Quarantine Programs,[1] stating such of the following information as is relevant: The name and address of the importer, the approximate quantity and kind of plants and plant products it is desired to import under this part, the country where grown, the United States port of arrival, the United States port of export, the proposed routing from the port of arrival to the port of exportation, means of transportation to be employed (i.e., mail, air mail, express, air express, freight, air freight, baggage), and the name and address of the agent representing the importer. Applications may be made on forms provided for the purpose by the Plant Protection and Quarantine Programs, or orally, or by letter, telegram, or other means of communication furnishing all the information required by this paragraph. Applications need not be made for shipments handled under general authorizations set forth in § 352.5 (b), (c), or (d), or in § 352.11.

(b) *Plant pests.* Any person desiring to unload or land, or otherwise move into or through the United States, any plant pest for which a specific permit is required by § 352.5 shall, in advance of the arrival of the plant pests in the United States, submit an application to the Plant Protection and Quarantine Programs[2] for a permit as specified by § 330.201 of this chapter.

(c) *Soil.* Any person desiring to bring into or unload or land, or otherwise move into or through the United States, any soil for which a specific permit is required by § 352.5 shall, in advance of the arrival of the soil in the United States, submit an application for permit to the Plant Protection and Quarantine Programs[2] as specified by § 330.300(b) of this chapter.

(d) *Constructive oral application.* If a permit has not been issued in advance of arrival, application for any required permit (other than a formal permit) shall be considered to have been made orally to the inspector at the port of arrival by presentation of the shipment for entry or its listing on the manifest or other documentation, but this shall not excuse failure to make timely application as required by this section. Express application is required for a formal permit.

(e) *Approval or denial of permits.* Upon approval of the application, the permit will be issued. Any conditions necessary to eliminate danger of plant pest dissemination may be specified in the permit, or otherwise as provided in § 352.10. Permits will be denied if, in the opinion of the Deputy Administrator, it is not possible to prescribe conditions adequate to prevent danger of plant pest dissemination by the plants, plant products, plant pests, or soil involved.

(Approved by the Office of Management and Budget under control number 0579-0049)

(44 U.S.C. 35)

[25 FR 1929, Mar. 5, 1960, as amended at 36 FR 24917, Dec. 24, 1971; 37 FR 10554, May 25, 1972; 48 FR 57466, Dec. 30, 1983]

§ 352.7 Notice of arrival.

Immediately upon arrival of any shipment of plants or plant products subject to this part and covered by a specific permit, the importer shall submit in duplicate through the U.S. Collector of Customs for the U.S. Department of Agriculture a notice of such arrival on a form provided for that purpose (PQ-368) and shall give such information as is called for by that form and, in addition, where relevant, the proposed routing to the proposed U.S. port of exit. Notice of arrival shall not be required for other products or articles subject to this part since other available documentation meets the requirement for this notice.

(Approved by the Office of Management and Budget under control number 0579-0049)

(44 U.S.C. 35)

[25 FR 1929, Mar. 5, 1960, as amended at 48 FR 57466, Dec. 30, 1983]

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[1] Application for such permits should be addressed to the Permit Unit, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 638, Federal Bldg., Hyattsville, Md. 20782.

[2] Application for permits should be made to the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250.

§ 352.8 Marking requirements.

Prohibited and restricted products and articles subject to this part shall be adequately marked or otherwise identified by documentation to indicate their nature.

§ 352.9 Ports.

The arrival, unloading, landing, or possession of plants, plant products, plant pests, soil, or other products or articles subject to this part shall not be allowed at points within the United States other than at the ports specified in the Customs Regulations in 19 CFR 1.1 and 19 CFR 6.13, and Agana, Guam, or such other ports as may be named in permits or administrative instructions. Restrictions on the ports which may be used for particular types of handling of any products or articles subject to this part may be specified generally in administrative instructions or in permits in specific cases. When ports are specified in permits or otherwise, the arrival, unloading, landing, or possession of the products or articles involved at other ports will not be allowed except as the inspector may authorize changes in the ports specified.

§ 352.10 Inspection; safeguards; disposal.

(a) *Inspection and release.* Prohibited and restricted products and articles subject to this part shall be subject to inspection at the port of first arrival in accordance with § 330.105(a) of this chapter and shall not be released by Customs officers for unloading, landing, or other onward movement or entry until released by an inspector or a Customs officer on behalf of an inspector in accordance with the procedure prescribed in § 330.105(a) of this chapter. If diversion or change of Customs entry is not permitted for any movements authorized under this part, the inspector at the original port of Customs entry shall appropriately endorse Customs documents to show that fact. However, the inspector at the U.S. port of export may approve diversion or change of Customs entry to permit movement to a different foreign country, or entry into the United States, subject to all other applicable requirements under this part or Part 319, 320, 321, or 330 of this chapter. If diversion or change of Customs entry is desired at a Customs port in the United States where there is no inspector, the owner may apply to the Plant Protection and Quarantine Programs[3] for information as to applicable conditions. If diversion or change of Customs entry is desired at port, confirmation will be given by the Plant Protection and Quarantine Programs to the appropriate Customs officers and Plant Protection and Quarantine Programs inspectors.

(b) *Safeguards.* (1) The unloading, landing, retention on board as stores and furnishings or cargo, transshipment and exportation, transportation and exportation, onward movment to the port of entry as residue cargo or under a Customs entry for immediate transportation, and other movement or possession within the United States of prohibited or restricted products and articles under this part shall be subject to such safeguards as may be prescribed in the permits and this part and any others which, in the opinion of the inspector, are necessary and are specified by him to prevent plant pest dissemination. In the case of prohibited or restricted products or articles subject to this part which are unloaded or landed for transshipment and exportation or transportation and exportation, or for onward movement to the port of entry as residue cargo or under a Customs entry for immediate transportation, this shall include necessary safeguards with respect to any movement within the port area between the point of arrival and the point of temporary storage, other handling, or point of departure, including a foreign trade zone. Prohibited and restricted products and articles subject to this part which are unloaded or landed for transshipment and exportation or transportation and exportation, or for onward movement as residue cargo or under a Customs entry for immediate transportation, shall be transshipped, or transported and exported from the United States, or moved onward immediately. This shall mean the shortest practicable interval of time commensurate with the risk of plant pest dissemination required to transfer the products or articles from one carrier to another and to move them onward or from the United States. If, in the opinion of the inspector, considerations of risk of plant pest dissemination require, such movement shall be made without regard to the noncompetitive or competitive relations of the carriers concerned, and the inspector shall promptly report to the Plant Protection and Quarantine Programs the circumstances when the emergency is so acute that subsequent movement is required on a carrier of a company other than the one bringing the products or articles to the United States or on which onward movement was contemplated by the shipper or forwarding carrier. Prohibited or restricted plants, plant products, plant pests, and soil which were intended for entry into the United States under Part 319, 320, 321, or 330 of this chapter, or for movement into or through the United States under this part, and which were refused such entry or movement before unloading or landing, or which were refused such entry or movement after unloading or landing and are immediately reloaded on the same carrier, may be retained on board pending removal from the United States or other disposal, but shall be subject to the safeguards specified under this section. Prohibited or restricted products and articles which were refused entry or movement under said parts after unloading or landing and which are not immediately reladed in accordance with this section shall be subject to such safeguard action as the inspector deems necessary to carry out the purposes of this part.

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[3] The Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250.

(2) Safeguards prescribed by an inspector under this section shall be prescribed to the owner by the inspector in writing except that the inspector may prescribe the safeguards orally when, in his opinion, the circumstances and related Customs procedures do not require written notice to the owner of the safeguards to be followed by the owner. In prescribing safeguards, the relevant requirements of Parts 319, 320, 321, and 330 of this chapter and this part shall be considered. The safeguards prescribed shall be the minimum required to prevent plant pest dissemination. Destruction or exportation shall be required only when no less drastic measures are deemed by the inspector to be adequate to prevent plant pest dissemination. The inspector may follow administrative instructions promulgated for certain situations, or he may follow a procedure selected by him from administratively approved methods known to be effective in similar situations. In the case of aircraft that are contaminated with insect pests, only an insecticidal formulation, approved for use in aircraft, may be so applied as an emergency measure. If the application is not effective against the insect pests or if other pests must be safeguarded against, the inspector shall report the circumstances promptly to the Plant Protection and Quarantine Programs and receive instructions as to safeguards that will not have a deleterious effect on the structure of the aircraft or its operating equipment. In prescribing safeguards consideration will be given to such factors as:

(i) The nature and habits of the plant pests known to be, or likely to be, present with the plants, plant products, soil, or other products or articles.

(ii) Nature of the plants, plant products, plant pests, soil, or other products or articles.

(iii) Nature of containers or other packaging and adequacy thereof to prevent plant pest dissemination.

(iv) Climatic conditions as they may have a bearing on plant pest dispersal, and refrigeration if provided.

(v) Routing pending exportation.

(vi) Presence of soil.

(vii) Construction or physical condition and type of carrier.

(viii) Facilities for treatment, or for incineration or other destruction.

(ix) Availability of transportation facilities for immediate exportation.

(x) Any other related factor which should be considered, such as intent to export to an adjacent or nearby country.

(c) *Disposal.* (1) If prohibited or restricted products or articles subject to this part are not safeguarded in accordance with measures prescribed under this part, or cannot be adequately safeguarded to prevent plant pest dissemination, they shall be seized, destroyed, or otherwise disposed of according to law. Whenever disposal action is to be taken by the inspector he shall notify the local Customs officer in advance.

(2) When a shipment of any products or articles subject to this part has been handled in accordance with all conditions and safeguards prescribed in this part and in the permit and by the inspector, the inspector shall inform the local Customs officer concerned of the release of such products or articles, in appropriate manner.

[25 FR 1929, Mar. 5, 1960, as amended at 36 FR 24917, Dec. 24, 1971; 37 FR 10554, May 25, 1972]

§ 352.11 Mail.

(a) *Transit mail.* (1) Plants, plant products, plant pests, and soil which arrive in the United States in closed dispatches by international mail or international parcel post and which are in transit through the United States to another country shall be allowed to move through the United States without further permit than the authorization contained in this section. Notice of arrival shall not be required as other documentation meets the requirement for this notice.

(2) Inspectors ordinarily will not inspect transit mail or parcel post, whether transmitted in open mail or in closed dispatches. They may do so if it comes to their attention that any such mail or parcel post contains prohibited or restricted products or articles which require safeguard action. Inspection and disposal in such cases will be made in accordance with this part and Part 330 of this chapter, and in conformity with regulations and procedures of the Post Office Department for handling transit mail and parcel post.

(b) *Importation for exportation.* Plants and plant products to be imported for exportation, by mail, will be handled under permit in accordance with Part 351 of this chapter.

§ 352.12 Baggage.

Products or articles subject to this part which are contained in baggage shall be subject to the requirements of this part in the same manner as cargo.

§ 352.13 Certain conditions under which change of Customs entry or diversion is permitted.

When plants, plant products, plant pests, and soil released for exportation, transshipment and exportation, or transportation and exportation, under this part, have met all applicable permit and other requirements for importation, including inspection and treatment, as provided in Part 319, 320, 321, or 330 of this chapter, the form of Customs entry may be changed and the shipment may be diverted at any time to permit delivery of the products and articles to a destination in the United States, so far as the requirements in this part are involved. The Customs officer concerned at the original port of Customs entry shall be informed by the inspector that such release has been made and that such change of entry or diversion is approved under this part by appropriate endorsement of Customs documents.

§ 352.14 Costs.

All costs incident to the inspection, handling, safeguarding, or other disposal of prohibited or restricted products or articles under the provisions in this part, except for the services of an inspector during regularly assigned hours of duty and at the usual places of duty, shall be borne by the owner.

§ 352.15 Caution.

In applying safeguards or taking other measures prescribed under the provisions in this part, it should be understood that inexactness or carelessness may result in injury or damage. It should also be understood by the owners that emergency measures prescribed by the inspector to safeguard against plant pest dissemination may have adverse effects on certain products and articles and that they will take the calculated risk of such adverse effects of authorized measures.

§§ 352.16—352.29 [Reserved]

§ 352.30 Administrative instructions: Certain oranges, tangerines, and grapefruit from Mexico.

The following provisions shall apply to the movement into or through the United States under this part of oranges, tangerines, and grapefruit from Mexico in transit to foreign countries via United States ports on the Mexican border.

(a) *Untreated fruit; general*—(1) *Permit and notice of arrival required.* The owner shall, in advance of shipment of untreated oranges, tangerines, or grapefruit from Mexico via United States ports on the Mexican border to any foreign country, procure a formal permit as provided in § 352.6, or application for permit may be submitted to the inspector at the port in the United States through which the shipment will move. Notice of arrival of such fruit shall be submitted as required by § 352.7.

(2) *Origin: period of entry.* Such fruit may enter from any State in Mexico throughout the year, in accordance with requirements of this section and other applicable provisions in this part.

(3) *Cleaning refrigerator cars and aircraft prior to return to the United States from Canada.* Refrigerator cars and aircraft that have been used to transport untreated oranges, tangerines, or grapefruit from Mexico through the United States to Canada shall be carefully swept and freed from all fruit, as well as boxes and rubbish, by the carrier involved prior to reentry into the United States.

(4) *Inspection; safeguards.* (i) Each shipment under paragraph (a) of this section shall be subject to such inspections and safeguards as are required by this section and such others as may be prescribed by the inspector pursuant to § 352.10.

(ii) Truck loads of untreated oranges, tangerines, and grapefruit arriving from Mexico at authorized ports in the United States for loading into refrigerator cars, aircraft, or ships for movement to a foreign country shall be preinspected by an inspector for freedom from citrus leaves before entry into the United States or be accompanied by an acceptable certificate from an inspector as to such freedom. Trucks loaded with such untreated fruit that are not free of such leaves will be denied entry into the United States. Loaded trucks free of such leaves shall be convoyed by an inspector from point of arrival in the United States to the point of unloading, or shall move under such other safeguards as the inspector shall prescribe.

(iii) All trucks, refrigerator cars, aircraft, and ships used to transport untreated fruit from Mexico through the United States to a foreign country under this paragraph (a) shall be subject to such treatment at the port of first arrival and elsewhere as may be required by the inspector, pursuant to this part, in order to prevent plant pest dissemination.

(b) *Additional conditions for overland movement of certain untreated fruit.* Untreated oranges, tangerines, and grapefruit from Mexico may move overland through the United States to a foreign country only in accordance with the following additional conditions:

(1) *Containers.* Such fruit shall be packed in containers of approximately the size customarily used by the trade for marketing such fruit in the United States.

(2) *Ports of entry.* Such fruit may enter only at Nogales, Arizona; or Brownsville, Eagle Pass, El Paso, Hidalgo, or Laredo, Texas.

(3) *Carrier*—(i) *Railway cars.* Refrigerator cars, in good condition, of United States or Canadian ownership only shall be used to transport such fruit by railway through the United States to Canada or other foreign country.

(ii) *Aircraft.* Aircraft may be used to transport such fruit from the ports named in paragraph (b)(2) of this section to points in Canada.

(iii) *Trucks.* Trucks may be used to haul such fruit from Mexico to shipside, or to approved refrigerated storage pending lading aboard ship, in Brownsville, or alongside refrigerator cars or aircraft at the ports named in paragraph (b)(2) of this section for movement to a foreign country. Such trucks shall be of the van-type and shall be kept closed from time of entry into the United States until unloading is to commence; or the load shall be covered with a tarpaulin tightly tied down which shall not be removed or loosened from time of entry into the United States until unloading is to commence. Trucks may not be used otherwise to transport such fruit from Mexico overland through the United States.

(4) *Bonded rail movement*—(i) *Routing.* Shipments of such fruit may move by direct route, in Customs bond and under Customs seal, without diversion or change of Customs entry en route, from the port of entry to the port of exit en route to Canada or to an approved North Atlantic port in the United States for export to another foreign country, as follows: The fruit may be entered at Nogales, Arizona, only for direct rail routing to El Paso, Texas, after which it shall traverse only the territory bounded on the west by a line drawn from El Paso, Texas, to Salt Lake City, Utah, and then to Portland, Oregon, and on the east by a line drawn from Brownsville, Texas, through Houston, Texas, and Kinder, Louisiana, to Memphis, Tennessee, and then to Louisville, Kentucky, and due east therefrom, such territory to include railroad routes from Brownsville to Houston and direct northward routes therefrom. Such fruit may also enter the United States from Mexico at any port listed in paragraph (b)(2) of this section for direct eastward rail movement in Customs bond and under Customs seal, without diversion en route, for reentry into Mexico.

(ii) *Icing.* All refrigerator cars transporting such fruit from States in Mexico other than Sonora shall be iced prior to crossing at Brownsville, Eagle Pass, El Paso, or Laredo, Texas, and shall be re-iced if necessary to prevent plant pest dissemination south of Little Rock, Arkansas, or a line drawn east and west therefrom. North of such a line no further icing is required. Icing, insofar as this part requires, may be omitted if all openings leading from the car to the ice bunkers are covered with a 14-mesh fly screen in a manner satisfactory to the inspector. All such cars must move through the United States with all doors closed and sealed.

(5) *Bonded air cargo movement.* Shipments of such fruit may move by direct route as air cargo, in Customs bond and without change of Customs entry while in the United States en route from the port of entry, to Canada. If an emergency occurs en route to the port of export that will require transshipment to another carrier, the owner should apply to the Plant Protection and Quarantine Programs[4] for information as to applicable conditions.

(c) *Additional conditions for movement of certain untreated fruit by water route.* Untreated oranges, tangerines, and grapefruit from Mexico may move from Mexico to a foreign country by water route through the United States under this section only in accordance with the following additional conditions:

(1) *Ports of entry.* Such oranges, tangerines, and grapefruit may enter only at New York, Boston, or such other North Atlantic ports in the United States as may be named in permits, for exportation, or at Brownsville, Texas, for exportation by water route.

(2) *Routing through North Atlantic ports.* Such fruit entering via North Atlantic ports in the United States shall move by direct water route to New York or Boston, or to such other North Atlantic ports as may be named in the permit only for immediate direct export by water route to any foreign country, or for immediate transportation and exportation in Customs bond by direct rail route to Canada.

(3) *Exportation from Brownsville by water.* (i) Such fruit laden in refrigerated holds for export from Brownsville shall be stowed in closed compartments if the ship is to call at other Gulf or South Atlantic ports in the United States. The compartments are not to be opened while in such other Gulf or South Atlantic ports.

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[4] The Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250.

(ii) Such fruit for export from Brownsville, not laden in refrigerated holds, shall be stowed in closed compartments separate from other cargoes. Bulkheads of such compartments shall be kept closed. Hatches containing such fruit shall be closed and the tarpaulin battened down and sealed with Plant Protection and Quarantine Programs seals. Such seal shall remain unbroken while the ship is in any such Gulf or South Atlantic port or waters. Vents and ventilators leading to compartments in which the fruit is stowed must be screened with fine mesh screening. Advance notice of arrival of ships carrying untreated Mexican oranges, tangerines, or grapefruit shall be given to the inspector at such Gulf or South Atlantic ports of call.

(d) *Restriction on diversion or change of Customs entry.* Diversion or change of Customs entry shall not be permitted with movements authorized under paragraph (b) (4) or (5) or paragraph (c) of this section and the inspector at the original port of Customs entry shall appropriately endorse the Customs documents to show that fact: *Provided,* That the inspector at such port of entry may, when consistent with the purposes of this part, approve diversion or change of Customs entry to permit movement to a different foreign country or entry into the United States subject to all other applicable requirements under this part or Part 319 of this chapter. If diversion or change of Customs entry is desired at a Customs port in the United States where there is no inspector, the owner may apply to the Plant Protection and Quarantine Programs for information as to applicable conditions. If diversion or change of entry is approved at such a port, confirmation will be given by the Plant Protection and Quarantine Programs to appropriate Customs officers and Plant Protection and Quarantine Programs inspectors.

(e) *Treated fruit.* Oranges, tangerines, and grapefruit from Mexico which have been treated in Mexico in accordance with § 319.56-2e of this chapter may be imported through the United States ports on the Mexican border for exportation in accordance with §§ 319.56 and 319.56-1 through 319.56-8 of this chapter.

(f) *Costs.* Costs shall be borne by the owner of the fruit as provided in § 352.14. This includes all costs for preinspection and convoying of loaded trucks and supervision of transloading from trucks to approved carriers or storage in United States ports when augmented inspection service has to be provided for such preinspection, convoying, and supervision.

[25 FR 1929, Mar. 5, 1960, as amended at 36 FR 24917, Dec. 24, 1971; 37 FR 10554, May 25, 1972]

PART 353—PHYTOSANITARY EXPORT CERTIFICATION

Sec.

353.1 Definitions.
353.2 Administration.
353.3 Where service is offered.
353.4 Products covered.
353.5 Application for certification.
353.6 Inspection.
353.7 Certificates.

AUTHORITY: Sec. 102, 58 Stat. 735, as amended; 7 U.S.C. 147a, unless otherwise noted.

SOURCE: 24 FR 10834, Dec. 29, 1959, unless otherwise noted.

§ 353.1 Definitions.

(a) Words used in this part in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

(b) For the purpose of this part, unless the context otherwise requires, the following terms shall be construed, respectively, to mean:

(1) *The act.* The act of Congress entitled "Department of Agriculture Organic Act of 1944," approved September 21, 1944 (58 Stat. 734), section 102(b)(c).

(2) *Plant Protection and Quarantine Programs.* The Plant Protection and Quarantine Programs of the United States Department of Agriculture.

(3) *Products.* Domestic plants and plant products.

(4) *Inspector.* An inspector of the Plant Protection and Quarantine Programs, United States Department of Agriculture, or other person authorized by the Secretary of Agriculture to inspect and certify to shippers and

other interested parties, as to the phytosanitary condition of the products inspected under the act.

(5) *Office of inspection.* The office of an inspector of products covered by this part.

(6) *Certificate.* A certificate of the phytosanitary condition of the products concerned, based on inspection of the entire lot or representative samples, issued by an inspector.

(7) *Consignment.* Any shipment of products assembled and inspected at one place at one time and covered by one application, or any mail shipment consigned to one consignee.

[24 FR 10834, Dec. 29, 1959, as amended at 28 FR 5204, May 24, 1963; 36 FR 24917, Dec. 24, 1971]

§ 353.2 Administration.

The Deputy Administrator of the Plant Protection and Quarantine Programs is charged with the supervision of the performance of all duties arising in the administration of the act.

§ 353.3 Where service is offered.[1]

(a) Information concerning the location of inspectors who may issue phytosanitary export certificates for products, except as provided in paragraph (b) of this section, may be obtained by contacting one of the following offices:

	States
Northeast Region	
Area I—Hartford, CT: Suite 303, 1 Hartford Square West, Hartford, CT 06106.	CT, MA, ME, NH, RI, VT.
Area II—Jamaica, NY: J.F. Kennedy International Airport, International Arrivals Building, Room 2315, Jamaica, NY 11430.	NY (JFKIA).
Area III—New York, NY: Federal Building, Room 1747, 26 Federal Plaza, New York, NY 10278.	New York City area, NJ.
Area IV—Philadelphia, PA: William Green, Jr., Federal Building, Room 9452, 6th and Arch Streets, Philadelphia, PA 19106.	DE, PA.
Area V—Oak Brook, IL: Suite 38, 1010 Jorie Boulevard, Oak Brook, IL 60521.	WI, MN, IL, IN, OH, MI.
Area VI—Albany, NY: Suite 503, 80 Wolf Road, Albany, NY 12205.	NY.
Area VII—Chevy Chase, MD: Suite 300, 1 Park North, 5550 Friendship Boulevard, Chevy Chase, MD 20815.	MD, VA, WV.
Southeastern Region	
Area I—Jacksonville, FL: Suite 129, 4080 Woodcock Drive, Jacksonville, FL 32207.	FL, GA.
Area II—Miami, FL: FAA and NWS Building, P.O. Box 59-2647 AMF, Miami, FL 33158.	Miami area.
Area III—Gulfport, MS: 3505 25th Avenue, P.O. Box 13, Gulfport, MS 39502.	AL, KY, MS, TN.
Area IV—Wilmington, NC: Rural Route 6, Box 53, Wilmington, NC 28405.	NC, SC.
Area V—San Juan, PR: Federal Office Building, Room 206, C. Chardon Avenue, Hato Rey, PR 00918.	PR, VI.
South Central Region	
Area I—Uvalde, TX: Suite 202, 200 East Nopal Street, P.O. Box 5160, Uvalde, TX 78801.	TX, NM.
Area II—San Antonio, TX: Federal Building, Room B-201, 727 East Durango, San Antonio, TX 78206.	TX, OK.
Area III—Slidell, LA: Slidell Towers, Room 205, 520 Old Spanish Trail, Slidell, LA 70458.	LA, AR.
Area IV— Jefferson City, MO: Suite K-2, 915 Southwest Boulevard, Jefferson City, MO 65101.	MO, IA, NE, KS.
Western Region	
Area I—Honolulu, HI: Prince Jonah Kuhio Kalanianaole Federal Building, Room 4117, 300 Ala Moana Boulevard, P.O. Box 50002, Honolulu, HI 96850.	HI.
Area II—Seattle, WA: 3112 Federal Building, 915 Second Avenue, Seattle, WA 98174.	WA, OR, AK.
Area III—Oakland, CA: Room 450, 1515 Clay Street, Oakland, CA 94612.	CA.
Area IV—Phoenix, AZ: Room 201, 522 North Central Avenue, Phoenix, AZ 85004.	AZ, NV.
Area V—Denver, CO: Suite 102, 7100 West 44th Avenue, Wheat Ridge, CO 80033.	CO, ND, SD, MT, ID, WY, UT.

(b) Inspectors who may issue phytosanitary export certificates for terrestrial plants offered for export and listed in 50 CFR Part 17 or 23 are available only at a port designated for export in 50 CFR Part 24, or at a nondesignated port if allowed by the United States Department of the Interior pursuant to section 9 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1538). The following locations are designated in 50 CFR Part 24 as ports for export of terrestrial plants listed in 50 CFR Part 17 or 23;

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[1] Telephone numbers for area offices are listed in local telephone directories.

(1) Any terrestrial plant offered for export and listed in 50 CFR Part 17 or 23:

Nogales, AZ
Los Angeles, CA
San Diego, CA
San Francisco, CA
Miami, FL
Honolulu, HI
New Orleans, LA
Hoboken, NJ (Port of New York)
Jamaica, NY
San Juan, PR
Brownsville, TX
El Paso, TX
Laredo, TX
Seattle, WA

(2) Any plant of the family Orchidaceae (orchids) offered for export and listed in 50 CFR Part 17 or 23:

Hilo, HI
Chicago, IL

(3) Roots of American ginseng (*Panax quinquefolius*) offered for export and listed in 50 CFR 23.23:

Atlanta, GA
Chicago, IL
Baltimore, MD
St. Louis, MO
Milwaukee, WI

(4) Any plant listed in 50 CFR 17.12 or 23.23 and offered for exportation to Canada:

Detroit, MI
Buffalo, NY
Rouses Point, NY
Blaine, WA

(Sec. 102, 58 Stat. 735, as amended; 7 U.S.C. 147a (7 CFR 2.17, 2.51, 371.2(c)))

[49 FR 46335, Nov. 26, 1984 and 50 FR 14692, Apr. 15, 1985]

§ 353.4 Products covered.

Domestic plants and plant products when offered for export.

§ 353.5 Application for certification.

(a) A written application shall be made on forms provided for the purpose setting forth such information as is called for as far in advance as possible, and shall be filed in the office of inspection at the port of certification.

(b) Each application shall be deemed filed when delivered to the proper office of certification. When such application is filed, a record showing the date and time of filing shall be made in such office.

(Approved by the Office of Management and Budget under control number 0579-0052)

(44 U.S.C. 35)

[24 FR 10834, Dec. 29, 1959, as amended at 48 FR 57466, Dec. 30, 1983]

§ 353.6 Inspection.

(a) The applicant shall cause the product for which inspection is requested to be made accessible for inspection and identification and to be so placed as to permit efficient inspection for insects and plant diseases of representative samples of all grades or kinds of such product.

(b) All labor involved in the inspection, including the moving, opening, and closing of containers, shall be furnished by the applicant.

(c) Certificates may be refused for failure to carry out fully any of the foregoing provisions.

(d) No inspector shall inspect any products in which he or a member of his family is directly or indirectly financially interested.

§ 353.7 Certificates.

(a) For each consignment of products for which certification is requested, the inspector shall sign and issue a separate certificate based on the findings of the inspection.

(b) The original certificate shall immediately upon its issuance be delivered or mailed to the applicant or a person designated by him.

(c) One copy of each certificate shall be filed in the office of certification, and one forwarded to the Deputy Administrator of the Plant Protection and Quarantine Programs.

(d) The Deputy Administrator of the Plant Protection and Quarantine Programs may authorize inspectors to issue certificates on the basis of inspections made by cooperating Federal and State agencies under requirements and conditions approved by him.

(e) Inspectors may issue new certificates on a basis of inspections for previous certifications when the previously issued certificates can be canceled before they have been accepted by the phytopathological authorities of the country of destination involved.

PART 354—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

Sec.
354.1 Overtime work at border ports, seaports, and airports.
354.2 Administrative instructions prescribing commuted traveltime.

AUTHORITY: 7 U.S.C., 49 U.S.C. 1741; 7 CFR 2.17, 2.51, and 371.2(c).

§ 354.1 Overtime work at border ports, sea ports, and airports.

(a)(1) Any person, firm, or corporation having ownership, custody, or control of plants, plant products, animals, animal byproducts, or other commodities or articles subject to inspection, laboratory testing, certification, or quarantine under this chapter and Subchapter D of Chapter I, Title 9 CFR, who requires the services of an employee of Plant Protection and Quarantine on a Sunday or holiday, or at any other time outside the regular tour of duty of such employee, shall sufficiently in advance of the period of Sunday or holiday or overtime service request the Plant Protection and Quarantine inspector in charge to furnish inspection, laboratory testing, certification, or quarantine service during such overtime, or Sunday or holiday period, and shall pay the Government therefor at a rate of $29.12 per work-hour per employee on a Sunday and at the rate of $22.48 per work-hour per employee for holiday or any other period; except that for any services performed on a Sunday or holiday, or at any time after 5 p.m. or before 8 a.m. on weekday, in connection with the arrival in or departure from the United States of a private aircraft or vessel, the total amount payable shall not exceed $25 for all inspection services performed by the Customs Service, Immigration and Naturalization Service, Public Health Service, and the Department of Agriculture; and except that owners and operators of aircraft will be provided service without reimbursement during regularly established hours of service on a Sunday or holiday; and except that the overtime rate to be charged owners or operators of aircraft at airports of entry or other places of inspection as a consequence of the operation of the aircraft, for work performed outside of the regularly established hours of service on a Sunday will be $24.52 and for work performed outside of the regularly established hours of service for a holiday or any other period will be $17.28 per hour, which charges exclude administrative overhead costs.

(2) A minimum charge of 2 hours shall be made for any Sunday or holiday or unscheduled overtime duty performed by an employee on a day when no work was scheduled for him or which is performed by an employee on his regular workday beginning either at least 1 hour before his scheduled tour of duty or which is not in direct continuation of the employee's regular tour of duty. In addition, each such period of Sunday or holiday or unscheduled overtime work to which the 2-hour minimum charge provision applies may include a commuted traveltime period (CTT) the amount of which shall be prescribed in administrative instructions to be issued by the Deputy Administrator, Plant Protection and Quarantine for the areas in which the Sunday or holiday or overtime work is performed and such period shall be established as nearly as may be practicable to cover the time necessarily spent in reporting to and returning from the place at which the employee performs such Sunday or holiday or overtime duty. With respect to places of duty within the metropolitan area of the employee's headquarters, such CTT period shall not exceed 3 hours. It shall be administratively determined from time to time which days constitute holidays. The circumstances under which such CTT periods shall be charged and the percentage applicable in each circumstance are as reflected in the following table:

	Actual time[1] charge—no minimum	2-hour guarantee charge	Commuted[2] traveltime (CTT) charge
Charges for Inspection Within Metropolitan Area of Employee's Headquarters			
Work beginning before daily tour begins:			
8 to 59 minutes	Yes	No	None.
60 to 119 minutes.		Yes	½ CTT.
120 minutes or more.		Yes	Full CTT.
Work beginning after daily tour ends:			
Direct continuation.	Yes	No	None.
Break-in-service of:			
2–29 minutes		Yes	None.
30–60 minutes		Yes	½ CTT.
61 minutes or more.		Yes	Full CTT.
Charges for Inspection Services Performed Outside Metropolitan Area of Employee's Headquarters			
Work beginning before daily tour begins:			
8 to 59 minutes	Yes	No	½ CTT.
60 minutes or more.		Yes	Full CTT.
Work beginning after daily tour ends:			
Direct continuations.	Yes	No	½ CTT.
2–59 minutes	No	Yes	½ CTT.
60 minutes or more.	No	Yes	Full CTT.
Charges for Call Out Inspection Service on Holiday or Nonworkday			
Work beginning at any time.	No	Yes	Full CTT.

[1] Actual time charged when work is contiguous with the daily tour will be in quarter hour multiples, with service time of 8 minutes or more rounded up to the next quarter hour and any time of less than 8 minutes will be disregarded.

[2] The full CTT allowance will be the amount of commuted traveltime prescribed for the place at which the inspections are performed. See § 354.2. One-half CTT is ½ of the full CTT period.

(b) The Plant Protection and Quarantine inspector in charge of honoring a request to furnish inspection, laboratory testing, quarantine or certification service, shall assign employees to such Sunday or holiday or overtime duty with due regard to the work program and availability of employees for duty.

(c) As used in this section—

(1) The term "private aircraft" means any civilian aircraft not being used to transport persons or property for compensation or hire, and

(2) The term "private vessel" means any civilian vessel not being used (i) to transport persons or property for compensation or hire, or (ii) in fishing operations or in processing of fish or fish products.

(64 Stat. 561 (7 U.S.C. 2260) and sec. 15, Pub. L. 94-353 (49 U.S.C. 1741))

[49 FR 1173, Jan. 10, 1984, as amended at 49 FR 12186, Mar. 29, 1984; 49 FR 19441, May 8, 1984; 49 FR 27487, July 5, 1984; 50 FR 721, Jan. 7, 1985; 50 FR 4625, Feb. 1, 1985]

§ 354.2 Administrative instructions prescribing commuted traveltime.

Each period of overtime and holiday duty, as defined in § 354.1 shall, in addition, include a commuted traveltime period for the respective ports, stations, and areas in which employees are located. The prescribed commuted traveltime periods are set forth below:

COMMUTED TRAVELTIME ALLOWANCES

[In hours]

Location covered	Served from—	Metropolitan area	
		Within	Outside
Alabama:			
Birmingham (including Birmingham Municipal Airport).	Alabaster		2
Birmingham (including Birmingham Municipal Airport).	Pelham		2
Chickasaw	Mobile		2
Huntsville		1	
Mobile		2	
Montgomery		1	
Undesignated ports			3
Alaska:			
Anchorage		1	
Seward	Anchorage		6
Undesignated ports			3
Arizona:			
Davis-Monthan AFB, Tucson.	Nogales		4
Douglas		1	
Douglas	Nogales		6
Nogales		1	
Phoenix		2	
Phoenix	Nogales		6
Phoenix	Tucson		5
San Luis		2	
Sasabe	Nogales		4
Tucson		1	
Tucson	Nogales		3
Yuma International airport.		1	

COMMUTED TRAVELTIME ALLOWANCES—Continued

[In hours]

Location covered	Served from—	Metropolitan area	
		Within	Outside
Undesignated ports			3
Arkansas:			
Blytheville AFB		1	
Dardanelle	Conway		3
Dardanelle	Little Rock		3
Fort Smith	Conway		5
Fort Smith	Little Rock		6
Helena	Blytheville		5
Helena	Little Rock		5
Little Rock		1	
Little Rock	Conway		2
Little Rock AFB		1	
Little Rock AFB	Conway		2
Osceola	Blytheville		2
Pine Bluff	Conway		4
Pine Bluff	Little Rock	2	
Undesignated ports			3
West Memphis	Blytheville		3
Bahamas:			
Nassau		1	
Freeport		1	
Bermuda:			
Ferry Reach		1	
California:			
Andrade	Calexico		2
Antioch	San Francisco		4
Burbank	Los Angeles		3
Calexico		1	
Camp Pendleton, USMC, Oceanside.	San Diego		3
Castle AFB	Merced		1
El Segundo	Los Angeles		2
El Toro MCAS	Los Angeles		3
George AFB	Los Angeles		4
Hamilton AFB, Novato	Travis AFB		3
Los Angeles (including San Pedro, Los Angeles Harbor, Los Angeles International Airport, Long Beach Harbor, and Long Beach Municipal Airport).		2	
March AFB	Los Angeles		4
March AFB	Riverside		1
Martinez	San Francisco		3
Mather Field AFB	Travis AFB		3
McClellan AFB	Travis AFB		3
Moffett Field NAS, Sunnyside.	San Francisco		3
Monterey	San Francisco		6
Norton AFB	Riverside		1
Norton AFB	Los Angeles		4
Ontario	Los Angeles		3
Pittsburg	San Francisco		4
Port Chicago	San Francisco		3
Port Hueneme	San Pedro		4
Redwood City	San Francisco		2
Richmond	San Francisco		3
Rodeo	San Francisco		3
Sacramento		1	
Sacramento	San Francisco		5
Sacramento	Travis AFB		2

COMMUTED TRAVELTIME ALLOWANCES—Continued

[In hours]

Location covered	Served from—	Metropolitan area	
		Within	Outside
Sacramento Metropolitan Airport.	Travis AFB		3
San Diego (including Mexican border at San Ysidro; Brown, Gillespie, and Lindbergh Fields, Imperial Beach; North Island, Miramar and Naval and Civilian Maritime within the San Diego Unified Port District).		2	
San Francisco (including Alameda, Oakland, San Francisco International Airport, and Oakland International Airport).		2	
Seal Beach	Los Angeles		2
Stockton		1	
Stockton	Travis AFB		3
Tecate	San Ysidro		3
Travis AFB		1	
Travis AFB	San Francisco		4
Vallejo	San Francisco		2
Undesignated ports			3
Colorado:			
Denver (including Stapleton International Airport).		2	
Ent AFB (Peterson Field).	Denver		5
Connecticut:			
Bradley Field, Windsor Locks.	Boston, MA		6
Bradley Field, Windsor Locks.	Warwick, RI		6
Bradley International Airport, Windsor Locks.		1	
Bradley International Airport, Windsor Locks.	Hadley, MA		2
Bridgeport	Groton		4
Bridgeport	Warwich, RI		6
Bridgeport	Windsor Locks		4
Groton (including New London).	Wallington		4
Groton (including New London).	Windsor Locks		4
Groton (including New London).		2	
New Haven	Groton		3
New Haven	Warwick, RI		6
New Haven	Windsor Locks		3
New London	Warwick, RI		4
Windsor Locks	Groton		4
Windsor Locks	Wallingford		3
Undesignated ports			3

COMMUTED TRAVELTIME ALLOWANCES—Continued

[In hours]

Location covered	Served from—	Metropolitan area	
		Within	Outside
Delaware:			
Claymont	Dover		3
Claymont	Wilmington		1
Delaware City	Wilmington		2
Delaware City	Dover		3
Dover		1	
Greater Wilmington Airport.	Dover		3
Wilmington (including marine terminal and airport).		1	
Wilmington	Philadelphia, PA		3
Wilmington	Baltimore, MD		5
Wilmington	Dover		3
District of Columbia:			
Washington, D.C. Metropolitan area (including Arlington and Alexandria, VA; Andrews AFB, MD; and Washington Navy Yard).	Andrews AFB, MD.	2	
Washington, D.C. Metropolitan area (including Arlington and Alexandria, VA; Andrews AFB, MD; and Washington Navy Yard).	Beltsville, MD	2	
Washington, D.C. Metropolitan area (including Arlington and Alexandria, VA; Andrews AFB, MD; and Washington Navy Yard).	Dulles International Airport, VA.	2½	
Florida:			
Apalachicola	Panama City		3
Apalachicola	Pensacola		6
Boca Grande	Tampa		5
Eglin AFB	Panama City		3
Eglin AFB	Pensacola		3
Fort Lauderdale		1	
Fort Meyers	Tampa		5
Fort Pierce		1	
Fort Pierce	West Palm Beach.		3
Jacksonville		2	
Key West		1	
Marathon	Key West		2
Miami		2	
Orlando		1½	
Orlando	Port Canaveral		3
Orlando	Ocoee		2
Panama City		1	
Panama City	Pensacola		5
Patrick AFB		1	
Pensacola		1	
Pensacola	Mobile, AL		3
Pensacola	Panama City		5
Port Canaveral		1	
Port Everglades		1	
Port St. Joe	Panama City		2
Port St. Joe	Pensacola		6

COMMUTED TRAVELTIME ALLOWANCES—Continued

[In hours]

Location covered	Served from—	Metropoli area
		Within
St. Petersburg/ Clearwater.	Tampa	2
Tampa		2
West Palm Beach		1
Undesignated ports		
Georgia:		
Atlanta		2
Brunswick	Savannah	
Columbus	Atlanta	
Marietta	Atlanta	
St. Mary's	Jacksonville, FL	
Savannah		2
Undesignated ports		
Hawaii:		
Barbers Point NAS	Honolulu	
Hilo		1
Honolulu		2
Kaanapali, Lahaina, Maui.	Kahului, Maui	
Kahului, Maui		1
Kahului, Maui	Honolulu	
Kailua, Kona	Hilo	
Kaneohi MCAS	Honolulu	
Kapaa	Lihue	
Kapahi	Lihue	
Keaau	Hilo	
Keahole		1
Keauhou	Keahole	
Lihue, Kauai		1
Lihue, Kauai	Honolulu	
Wahiawa, Oahu	Honolulu	
West Loch, Pearl Harbor.	Honolulu	
Undesignated ports		
Idaho:		
Mountain Home AFB	Caldwell	
Mountain Home AFB	Twin Falls	
Illinois:		
Chicago		3
Peoria	Princeton	
Indiana:		
Evansville	Franklin	
Gary	Hanna	
Indianapolis	Frankfort	
Indianapolis	Franklin	
Mount Vernon	Franklin	
Undesignated ports		
Iowa:		
Des Moines	Boone	
Kentucky:		
Covington	Lexington	
Fort Campbell	Brentwood, TN	
Greater Cincinnati Airport.	Erlanger, KY	1
Louisville	Lexington	
Louisiana:		
Barksdale AFB, Shreveport.	Baton Rouge	
Barksdale AFB, Shreveport.	Natichotoches	
Baton Rouge (including Port Allen).		2
Buras	New Orleans	

COMMUTED TRAVELTIME ALLOWANCES—Continued

[In hours]

Location covered	Served from—	Metropolitan area	
		Within	Outside
Burnside	Baton Rouge		3
Burnside	Thibodaux		2½
Convent	Baton Rouge		3
Donaldsonville	Baton Rouge		3
Donaldsonville	Thibodaux		2
England AFB	Alexandria	1	
England AFB, Alexandria.	Baton Rouge		5
England AFB, Alexandria.	Natichotoches		2½
Fouchon	New Orleans		5
Geismar	Baton Rouge		2
Geismar	Thibodaux		3
Lake Charles	Crowley		3
Lake Charles	Port Arthur, TX		3
Lake Charles		1	
Morgan City	New Orleans		4
New Orleans		2	
Ostrica	New Orleans		4
Plaquemine	Baton Rouge		2
St. Gabriel	Baton Rouge		2
St. James	Baton Rouge		3
St. James	Thibodaux		2½
Uncle Sam	Baton Rouge		3
Uncle Sam	Thibodaux		3
Venice	New Orleans		4
Points on the Mississippi River above the St. Charles-Jefferson Parish boundary to and including Gramercy, LA: any point below Chalmette, LA, on the east bank; and Belle Chasse, LA, and points to and including Port Sulphur on the west bank.	New Orleans		3
Undesignated ports			3
Maine:			
Bangor		1	
Bangor	Augusta		3
Bath	Portland		2
Brunswick NAS	Portland		2
Brunswick NAS	Augusta		2
Bucksport	Bangor		2
Cousins Island	Portland		1
Eastport	Bangor		6
Harpswell	Portland		2
Kittery	Portland		3
Portland		1	
Portland	Augusta		3
Searsport	Augusta		4
Searsport	Bangor		3
Wiscasset	Portland		3
Winterport	Bangor		2
Undesignated ports			3
Maryland:			
Aberdeen Proving Ground.	Baltimore		3
Andrews AFB		2	

COMMUTED TRAVELTIME ALLOWANCES—Continued

[In hours]

Location covered	Served from—	Metropolitan area	
		Within	Outside
Andrews AFB	Beltvsille	2	
Andrews AFB	Dulles International Airport, VA.	2½	
Annapolis	Baltimore		3
Baltimore		3	
Cambridge	Baltimore		4
Cambridge	Dover, DE		4
Salisbury	Dover, DE		3
Salisbury	Baltimore		4
Undesignated ports	Dover, DE, or Dulles International Airport, VA.		3
(For other points in Maryland, see D.C. listing)			
Massachusetts:			
Boston		3	
Fall River	Boston		5
Fall River	Warwick, RI		3
Gloucester	Boston		4
New Bedford		2	
New Bedford	Boston		5
New Bedford	Warwick, RI		3
Otis ANG/CGNS	Boston		6
Otis ANG/CGNS	New Bedford		3
Otis ANG/CGNS	Warwick, RI		5
Plymouth	Warwick, RI		3
Provincetown	Warwick, RI		6
Sandwich	Boston		6
Sandwich	Warwick, RI		4
Somerset	Boston		4
Westover AFB	Boston		6
Westover AFB	Hadley		1
Woods Hole	Boston		6
Woods Hole	New Bedford		4
Woods Hole	Warwick, RI		5
Undesignated ports	Boston, New Bedford, MA and Warwick, RI.		3
Mexico:			
Camargo	Roma, TX	1	
Cuidad Acuna	Del Rio, TX	1	
Cuidad Juarez	El Paso, TX	1	
Matamoros	Brownsville, TX	1	
Mier	Roma, TX	1	
Nuevo Cd. Guerrero	Roma, TX	1	
Nuevo Laredo	Laredo, TX	1	
Nuevo Progreso	Progreso, TX	1	
Ojinago	Presidio	1	
Piedras Negras	Eagle Pass, TX	1	
Reynosa	Hidalgo, TX	1	
Michigan:			
Bay City	Detroit		5
Battle Creek	Kalamazoo		2
Detroit (including Detroit Metropolitan Airport, Inkster).		3	
Kent County Airport	Grand Rapids	1	
Monroe	Detroit		3
Muskegon	Detroit		6
Muskegon	Grand Rapids		2

COMMUTED TRAVELTIME ALLOWANCES—Continued

[In hours]

Location covered	Served from—	Metropolitan area	
		Within	Outside
Muskegon	Kalamazoo		4
Port Huron	Detroit		4
Saginaw	Detroit		5
South Haven	Detroit		6
Minnesota:			
Duluth		1	
Minneapolis-St. Paul		2	
Silver Bay	Duluth		3
Mississippi:			
Greenville		1	
Gulfport	Hattiesburg		3
Gulfport	Pascagoula		2
Keesler AFB	Hattiesburg		4
Keesler AFB	Pascagoula		2
Natchez	Brookhaven		4
Pascagoula		1	
Pascagoula	Mobile, AL		3
Port Bienville	Hattiesburg		4
Port Bienville	Pascagoula		3
Vicksburg	Jackson		3
Undesignated ports			3
Missouri:			
Kansas City		1	
Kansas City	St. Charles		6
Kansas City International Airport.	Boone, IA		6
Kansas City International Airport.	St. Louis		6
Kansas City International Airport.		2	
Richards-Gebaur AFB	Kansas City	2	
Rosecrans AFB	Kansas City		3
St. Louis and St. Louis International Airport.	St. Louis	2	
Whiteman, AFB	Kansas City		4
Montana:			
Butte International Airport.	Billings		6
Great Falls International Airport.	Great Falls	1	
Nevada:			
Las Vegas		1	
Reno		1	
New Hampshire:			
Keene Airport, Keene	Canaan		4
Keene Airport, Keene	Groton		6
Newington	Portland, ME		3
Pease AFB	Portland, ME		3
Portsmouth	Portland, ME		3
Portsmouth	Manchester		3
Undesignated ports	Manchester, NH and Rouses Point, NY.		3
New Jersey:			
Atlantic City	Bridgeton		3
Atlantic City	Freehold		3
Bridgeport (Monsanto)	Wilmington, DE		1
Burlington	Philadelphia, PA		3
Coast Guard Sta., Cape May.	Bridgeton		4
Deepwater (Penns Grove).	Wilmington, DE		1
Lakehurst NAS	McGuire AFB		2

COMMUTED TRAVELTIME ALLOWANCES—Continued

[In hours]

Location covered	Served from—	Metropolita area	
		Within	Ou- sid
McGuire AFB	Freehold		
McGuire AFB	Bridgeton		
McGuire AFB	Trenton		
McGuire AFB, Wrightstown.		2	
Paulsboro	Philadelphia, PA		
Salem	Bridgeton (Monsanto).		
Salem	McGuire AFB		
Trenton		2	
New Mexico:			
Albuquerque		1	
Columbus	El Paso, TX		
Columbus	Las Cruces		
Holloman AFB, Alamogordo.	El Paso, TX		
Undesignated ports			
New York:			
Buffalo		2	
Chateaugay (including Churubusco and Cannon Corners).	Rouses Point		
Jamaica, Long Island		2	
Lewiston	Buffalo		
Massena	Rouses Point		
New York		3	
Niagara Falls	Buffalo		
Ogendsburg	Rouses Point		
Oswego	Buffalo		
Plattsburgh	Rouses Point		
Rochester	Buffalo		
Roosevelt Town	Rouses Point		
Rouses Point (including Champlain).		1	
Syracuse		1	
Syracuse	Buffalo		
Undesignated ports	Buffalo or Rouses Point.		
North Carolina:			
Camp Lejeune	Kenansville or Kinston.		
Camp Lejeune	Wallace or Wilmington.		
Camp Lejeune	Morehead City		
Charlotte		2	
Cherry Point	Kinston		
Cherry Point	Morehead City		
Elizabeth City		1	
Morehead City		1	
Morehead City	Kinston		
New River MCAS	Morehead City		
New River MCAS	Kenansville		
New River MCAS	Wallace		
Pope AFB	Fayetteville	1	
Pope AFB	Raeford		
Seymour-Johnson AFB.	Goldsboro	1	
Sunny Point Army Terminal, Southport.	Wilmington		
Wilmington		1	
Undesignated ports			
Ohio:			
Akron	Cleveland		

COMMUTED TRAVELTIME ALLOWANCES—Continued

[In hours]

Location covered	Served from—	Metropolitan area	
		Within	Outside
Ashtabula	Cleveland		3
Cincinnati	Toledo		6
Cleveland		2	
Columbus	Cleveland		6
Columbus	Marysville		2
Columbus	Sidney		5
Columbus	Washington Court House.		3
Dayton	Marysville		3
Dayton	Sidney		2
Dayton	Toledo		6
Dayton	Washington Court House.		3
Fairport Harbor	Cleveland		2
Greater Cincinnati Airport (Boone County, KY).	Erlanger, KY	1	
Lorraine	Cleveland		2
Lunken Airport	Erlanger, KY		1
Rickenbacker AFB	Cleveland		6
Toledo		2	
Toledo	Romulus, MI		4
Undesignated ports			3
Oklahoma:			
Altus AFB	Oklahoma City		6
Altus AFB	Elk City		3
Muskogee		1	
Port of Catoosa	Muskogee		3
Port of Catoosa	Oklahoma City		6
Port of Muskogee	Oklahoma City		6
Port of Verdigres	Oklahoma City		6
Tulsa International Airport.	Muskogee		3
Tulsa International Airport.	Oklahoma City		6
Tinker AFB, Oklahoma City.		1	
Will Rogers World Airport, Oklahoma City.		1	
Undesignated ports	Oklahoma City		3
Oregon:			
Astoria		1	
Astoria	Portland		5
Coos Bay (including North Bend).		1	
Newport	Coos Bay		5
Port Westward	Astoria		2
Portland		2	
Westport	Astoria		2
Undesignated ports			3
Pennsylvania:			
Allentown-Bethlehem Easton Airport.	Moosic		5
Allentown-Bethlehem Easton Airport.	Allentown	2	
Allentown-Bethlehem Easton Airport.	Carlisle		5
Chester	Philadelphia		3
Chester	Wilmington, DE		1
Erie	Buffalo, NY, or Cleveland, OH.		4
Erie	Meadville		3
Erie	Mercer		4

COMMUTED TRAVELTIME ALLOWANCES—Continued

[In hours]

Location covered	Served from—	Metropolitan area	
		Within	Outside
Greater Pittsburgh International Airport.	Cleveland, OH		6
Greater Pittsburgh International Airport.	Meadville		5
Greater Pittsburgh International Airport.	Mercer		4
Greater Pittsburgh International Airport.	Pittsburgh	3	
Harrisburg International Airport.	Carlisle		2
Harrisburg International Airport.	Allentown		4
Harrisburg International Airport.	Moosic		6
Harrisburg International Airport.	Philadelphia		5
Harrisburg International Airport.	University Park		5
Harrisburg International Airport.	Williamsport		6
Marcus Hook	Philadelphia		3
Marcus Hook	Wilmington, DE		1
Philadelphia		3	
Philadelphia	McGuire Air Force Base.		3
Philadelphia	Wilmington, DE		3
Tullytown	Philadelphia		3
Wilkes-Barre/ Scranton Airport.	Allentown		5
Wilkes-Barre/ Scranton Airport.	Williamsport		6
Wilkes-Barre/ Scranton Airport.	Moosic		2
Willow Grove NAS	Philadelphia		3
Puerto Rico:			
Aguadilla	Mayaguez		2
Aguirre	Ponce		2
Arecibo	San Juan		3
Borinquen Field	Mayaguez		2
Fajardo	Roosevelt Road		1
Fajardo	San Juan		3
Guanica	Mayaguez		2
Guanica	Ponce		2
Guayama	Ponce		2
Guayanilla	Ponce		2
Humacao and Yabucoa.	San Juan		4
Mayaguez (including points from Ramey to Cabo Rojo).	San Juan		5
Mayaguez and El Mani Airport.		1	
Ponce (including all subports in the Ponce customs district).	San Juan		4
Ponce and Mercedita Airport.		1	
Roosevelt Roads		1	
San Juan		2	
Tallaboa (Penuelas)	Ponce		2
Yabucoa	Roosevelt Roads		3
Rhode Island:			
Davisville NSD	Boston, MA		4

COMMUTED TRAVELTIME ALLOWANCES—Continued

[In hours]

Location covered	Served from—	Metropolitan area	
		Within	Out-side
Davisville NSD	Warwick		2
Melville	Warwick		3
Newport	Boston, MA		5
Newport	Warwick		4
Portsmouth	Warwick		3
Providence	Boston, MA		4
Providence	Warwick		2
Quonset Point	Boston, MA		4
Quonset Point	Warwick		2
Saunderstown	Warwick		3
Tiverton	Warwick		3
Warwick		2	
Undesignated ports			3
South Carolina:			
Beaufort-Port Royal	Charleston		4
Beaufort-Port Royal	Savannah		3
Charleston		2	
Columbia	Charleston		4
Columbia		1	
Georgetown	Charleston		3
Greenville-Spartanburg.		1	
McEntire NG Air Base	Columbia		2
McEntire NG Air Base, Eastover.	Charleston		4
Myrtle Beach AFB	Charleston		4
Myrtle Beach AFB	Conway		1
Shaw AFB	Columbia and Florence.		2
Shaw AFB, Sumter	Charleston		4
Undesignated ports			3
Tennessee:			
Knoxville		1	
Memphis		1	
Memphis	Dyersburg		4
Millington	Dyersburg		3
Millington	Memphis		2
Nashville		1	
Undesignated ports			3
Texas:			
Alamo	Hidalgo		1
Aransas Pass	Corpus Christi		2
Barbours Cut	Houston		3
Bayport	Houston		3
Baytown	Houston		2
Beaumont	Port Arthur		2
Beaumont	Lake Charles		3
Brownsville		1	
Carswell Field, Fort Worth.	Dallas-Fort Worth Regional Airport.		3
Corpus Christi		1	
Corpus Christi NAS	Corpus Christi		1
Dallas		1	
Dallas (including Love Field).	Dallas-Fort Worth Regional Airport.		1
Dallas-Fort Worth Regional Airport.		1	
Dallas-Fort Worth Regional Airport.	Denton		2

COMMUTED TRAVELTIME ALLOWANCES—Continued

[In hours]

Location covered	Served from—	Metropolitan area	
		Within	Out-side
Dallas-Fort Worth Regional Airport.	Waxahachie		3
Del Rio		1	
Del Rio	Eagle Pass		3
Donna	Hidalgo		2
Dyess AFB	Abilene	1	
Eagle Pass		1	
El Paso		1	
Fabens	El Paso		2
Falcon Heights	Roma		1
Freeport	Galveston or Houston.		3
Fort Hood	College Station		5
Fort Hood	Waco		3
Galveston		1	
Galveston	Houston		4
Gregory	Corpus Christi		1
Harbor Island	Corpus Christi		2
Harlingen		1	
Harlingen	McAllen		2
Hidalgo		1	
Hidalgo	Brownsville		3
Houston (except Houston Intercontinental Airport).		2	
Houston Intercontinental Airport.		3	
Kelly AFB	San Antonio		2
Kelly AFB	Boerne		3
La Feria	Hidalgo		2
Laredo		1	
Laughlin AFB	Del Rio		1
Love Field	Waxahachie		2
Love Field	Denton		2
McAllen	Hidalgo		1
Meacham Field	Dallas-Fort Worth Regional Airport.		2
Mercedes	Hidalgo		2
Mission	Hidalgo		1
Orange	Port Arthur		2
Orange	Lake Charles		2
Pharr	Hidalgo		1
Point Comfort		1	
Point Comfort	Corpus Christi		5
Port Arthur		1	
Port Arthur	Lake Charles or Baton Rouge.		3
Port Isabel	Brownsville		2
Port Lavaca	Corpus Christi		4
Presidio		1	
Progreso		1	
Progreso	Brownsville or Hidalgo.		2
Randolph AFB	San Antonio		2
Rio Grande City	Roma		1
Robert Grey Army Airfield.	College Station		5
Robert Grey Army Airfield.	San Antonio		5

COMMUTED TRAVELTIME ALLOWANCES—Continued

[In hours]

Location covered	Served from—	Metropolitan area	
		Within	Outside
Robert Grey Army Airfield.	Waco		3
Rockport	Corpus Christi		2
Roma		1	
Roma	Hidalgo		3
Roma	Brownsville		5
Roma	Laredo		4
Sabine Pass	Port Arthur		1
San Antonio		1	
San Juan	Hidalgo		1
Texas City	Galveston		1
Weslaco	Hidalgo		2
Undesignated ports			3
Utah:			
Salt Lake City International Airport.		2	
Hill Air Force Base, Ogden.	Salt Lake City		4
Vermont:			
Alburg	Rouses Point, NY.	1	
Burlington	Montpelier		2
Montpelier		1	
St. Albans (including Highgate Springs and Morses Line).	Rouses Point, NY.		2
Undesignated ports	Rouses Point, NY.		3
Undesignated ports	Montpelier		3
Virgin Islands:			
Alexander Hamilton Airport, St. Croix.		1	
Charlotte Amalie, St. Thomas.		1	
Christiansted, St. Croix.		1	
Frederiksted, St. Croix		1	
Virginia:			
Alexandria or Arlington.	Andrews AFB, MD.	2	
Alexandria or Arlington.	Dulles International Airport.	2½	
Alexandria or Arlington.	Beltsville, MD	2	
Dulles International Airport.		2	
Dulles International Airport.	Baltimore, MD		3
Dulles International Airport.	Beltsville, MD	2½	
Dulles International Airport.	Fredericksburg		3
Hopewell	Norfolk		5
Norfolk Metropolitan Area (including Chesapeake, Hampton, Newport News, Portsmouth and Virginia Beach).		2	
Quantico MCAS	Dulles International Airport.		3
Quantico MCAS	Fredericksburg	1½	
Richmond	Norfolk		5
Undesignated ports			3
(For other points in Virginia, see District of Columbia listing)			
Washington:			
Anacortes	Blaine		3
Anacortes	Seattle		5
Ault Field	Blaine		4
Ault Field	Seattle		5
Bellingham	Blaine		2
Bellingham	Seattle		6
Bangor NSD	Seattle		4
Blaine		1	
Cherry Point	Blaine		1
Cherry Point	Seattle		6
Edmonds	Seattle		2
Everett	Seattle		3
Ferndale	Blaine		2
Ferndale	Seattle		6
Fort Lewis	Tacoma		2
Grays Harbor	Astoria, OR		3
Grays Harbor	Tacoma		4
Grays Harbor	Seattle		6
Kalama	Portland, OR		3
Longview	Astoria or Portland, OR.		3
Lynden	Blaine		2
McChord AFB	Tacoma		2
McChord AFB	Seattle		3
Olympia	Tacoma		2
Olympia	Seattle		3
Paine Field	Seattle		3
Point Wells		2	
Port Angeles	Tacoma or Seattle.		6
Port Townsend	Seattle		4
Raymond	Astoria, OR		2
SEA TAC Airport		2	
SEA TAC Airport	Tacoma		2
Seattle		2	
Snohomish County Airport.	Seattle		2
Sumas	Blaine		2
Tacoma		1	
Tacoma	Seattle		3
Vancouver		2	
Willapa Bay	Astoria, OR		2
Willapa Bay	Tacoma		4
Willapa Bay	Seattle		6
Undesignated ports	Astoria or Portland, Oregon, Tacoma, Seattle.		3
West Virginia:			
Kanswha Airport	Charleston	1	
Kanswha Airport	Clarksburg		6
Wisconsin:			
Green Bay	Milwaukee		6
Kenosha	Milwaukee		2
Madson	Milwaukee		4
Milwaukee		2	

COMMUTED TRAVELTIME ALLOWANCES—Continued

[In hours]

Location covered	Served from—	Metropolitan area	
		Within	Outside
Milwaukee	O'Hare International Airport, Chicago, IL.		5
Racine	Milwaukee		2
Superior	Duluth, MN	1	
Undesignated ports	Duluth, MN or Milwaukee.		3
Temporary detail:			
Any inspection point to which an employee may be temporarily detailed.		1	

[49 FR 32332, Aug. 14, 1984, as amended at 50 FR 40187, Oct. 2, 1985]

PART 355—ENDANGERED SPECIES REGULATIONS CONCERNING TERRESTRIAL PLANTS [1, 2]

Subpart—Purpose and Definitions

Sec.

355.1 Purpose.
355.2 Definitions.

Subpart—Permission to Engage in Business

355.10 Permission to engage in business concerning nonlisted terrestrial plants.
355.11 General permits.

Sec.

Subpart—Inspections and Related Provisions

355.20 Marking and notification requirements for plants imported, exported, or reexported by means other than mail.
355.21 Marking and mailing requirements for plants imported, exported, or reexported by mail.
355.22 Validation of documentation.
355.23 Recordkeeping, access, and reports.

AUTHORITY: Secs. 3, 4, 9, and 11, as amended; 87 Stat. 885, 886, 893, and 897, as amended (16 U.S.C. 1532, 1538, and 1540); 7 CFR 2.17, 2.51, 371.2.

SOURCE: 49 FR 42912, Oct. 25, 1984, unless otherwise noted.

Subpart—Purpose and Definitions

§ 355.1 Purpose.

Pursuant to the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), the Secretary is responsible for the enforcement of the provisions of the Act and Convention which pertain to the importation, exportation, or reexportation of terrestrial plants. The regulations in this part are for the purpose of implementing this authority. Regulations of the U.S. Department of the Interior which interrelate with the regulations in this part are contained in 50 CFR Chapter I.

§ 355.2 Definitions.

Terms used in the singular form in this Part shall be construed as the plural, and vice versa, as the case may demand. The following terms, when used in this part, shall be construed, respectively, to mean:

Act. The Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Convention. The Convention on International Trade in Endangered Species of Wild Fauna and Flora, TIAS 8249, 27 U.S.T. 1087, signed on March 3, 1973, and the Appendices thereto.

Deputy Administrator. The Deputy Administrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine, U.S. Department of Agriculture, or any other officer or employee of the Department to whom authority to act in his or her stead has been or may hereafter be delegated.

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[1] Pursuant to section 11 of the Act (16 U.S.C. 1540) it is unlawful for any person to knowingly violate any provision of the Act, any permit or certificate issued under the Act, or any regulation promulgated under the Act. Further, section 11 of the Act provides for criminal, civil, and administrative penalties for any such violation.

[2] Plant Protection and Quarantine also administers programs under the Lacey Act Amendments of 1981 (16 U.S.C. 3401 *et seq.*), the Plant Quarantine Act, as amended (7 U.S.C. 151 *et seq.*), the Federal Plant Pest Act, as amended (7 U.S.C. 150aa *et seq.*), and the Federal Noxious Weed Act of 1974 (7 U.S.C. 2801 *et seq.*) which contain authority for additional prohibitions and restrictions on the importation of plants subject to this part (see other parts of 7 CFR Chapter III for regulations containing prohibitions and restrictions under these authorities).

Engage in business as an importer, exporter, or reexporter of terrestrial plants. To import, export, or reexport terrestrial plants for the purpose of selling, bartering, collecting, or otherwise exchanging or acquiring the plants as a livelihood or enterprise engaged in for gain or profit. This term shall not include persons engaged in business merely as carriers or customhouse brokers.

Export (exported, exporting, exportation). To carry, send, take, transport or otherwise remove, or to attempt to carry, send, take, transport or otherwise remove from any place subject to the jurisdiction of the United States.

Import (imported, importing, importation). To land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, whether or not such landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States.

Inspector. Any employee of Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or other person, authorized by the Deputy Administrator in accordance with law to enforce the provisions of the Act and Convention, and regulations promulgated thereunder.

Person. Any individual, corporation, partnership, trust, association, or any other private entity; or any officer, employee, agent, department, or instrumentality of the Federal Government, of any State or political subdivision thereof or of any foreign government.

Plant. Any member of the plant kingdom, including seeds, roots and other parts thereof.

Plant Protection and Quarantine. The organizational unit within the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, delegated responsibility for enforcing provisions of the Act and Convention, and regulations promulgated thereunder.

Reexport (reexported, reexportation). To export following importation.

Secretary. The Secretary of Agriculture, or any other officer or employee of the Department of Agriculture to whom authority to act in his or her stead has been or may hereafter be delegated.

Terrestrial plants. Any plants (including epiphytic plants), except marine plants.

Validation. An original stamp, signature, and date of inspection placed upon documentation required by 50 CFR Part 17 or Part 23 by an inspector at the port where the terrestrial plants are to be imported, exported or reexported.

United States. Any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the U.S. Virgin Islands, Guam, and the Trust Territory of the Pacific Islands.

Subpart—Permission to Engage in Business

§ 355.10 Permission to engage in business concerning nonlisted terrestrial plants.

The Secretary hereby grants permission for any person engaged in business as an importer, exporter, or reexporter of terrestrial plants, other than terrestrial plants listed in 50 CFR 17.12 or 23.23, to engage in such business without a general permit issued under § 355.11.

§ 355.11 General permits.[3]

(a) On or after March 26, 1985 no person shall engage in business as an importer, exporter, or reexporter of any terrestrial plants listed in 50 CFR 17.12 or 23.23 unless such person has obtained a general permit for engaging in such business from Plant Protection and Quarantine.

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[3] This permit is named a "general permit" in order to avoid confusion with "permits" obtained under the Act from the U.S. Department of the Interior to accompany the importation, exportation, or reexportation of plants under U.S. Department of the Interior regulations, and to avoid confusion with "permits" obtained from Plant Protection and Quarantine for the importation of plants under the Plant Quarantine Act, as amended (7 U.S.C. 151 *et seq.*) and the Federal Noxious Weed Act of 1974 (7 U.S.C. 2801 *et seq.*).

(b) An application for a general permit shall be submitted to Regulatory Services Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Federal Building, Hyattsville, MD 20782. The completed application shall include the following information:[4]

(1) Date of application;

(2) Applicant's name, mailing address, and telephone number;

(3) If the applicant is an individual, the business affiliation, if any, having to do with the importation, exportation, or reexportation of terrestrial plants listed in 50 CFR 17.12 or 23.23;

(4) If the applicant is in the name of a business or if the applicant is affiliated with a business which imports, exports, or reexports terrestrial plants listed in 50 CFR 17.12 or 23.23, the form of the business, e.g., corporation, firm, partnership; and the name and address of each partner, officer, director, holder, and owner of 10 percent or more of the voting stock, and employee in a managerial or executive capacity;

(5) The address of all applicants' business locations, including but not limited to locations of nurseries, growing fields, propagating beds, holding beds and similiar facilities where activities relating to terrestrial plants listed in 50 CFR 17.12 or 23.23 would be conducted;

(6) A brief and complete description of the nature of the applicant's business as it relates to engaging in business as an importer, exporter, or reexporter of terrestrial plants listed in 50 CFR 17.12 or 23.23;

(7) Any address where books or records concerning the importation, exportation, or reexportation of terrestrial plants listed in 50 CFR 17.12 or 23.23 would be kept;

(8) Name, address, and telephone number of the person authorized to make records or plant inventories available for examination by inspectors or other duly authorized representatives of the Secretary; and

(9) Certification by signature of the applicant (must be a partner or officer if the applicant is a business) after the following language: "I hereby certify that the information in this application is complete and accurate to the best of my knowledge and belief."

(c) Each application for a general permit must be accompanied by a check or money order for $70 made payable to Plant Protection and Quarantine. The fee shall not be refunded if the application is denied or abandoned.

(d) After receipt and review of the application by Plant Protection and Quarantine, a general permit for the importation, exportation, and reexportation of terrestrial plants listed in 50 CFR 17.12 or 23.23 shall be issued if the applicant has submitted an application containing all information requested in paragraph (b) of this section, if the applicant has paid the fee in accordance with paragraph (c) of this section, and if a general permit of the applicant or anyone responsibly connected with the business of the applicant has not been and is not denied, suspended or revoked pursuant to paragraph (i) of this section.

(e) The applicant shall be notified in writing by Plant Protection and Quarantine of the approval or denial of any request for a general permit. If a general permit is denied, the notification shall state the reasons therefor. If a general permit is denied, the applicant may request a hearing pursuant to paragraph (i)(1) of this section and may submit to Plant Protection and Quarantine, in writing, reasons why the permit should not have been denied. Such submissions of the applicant shall not be considered a new application if submitted within 60 days following the receipt of notification of the denial by the applicant.

(f) Upon receipt of an incomplete or improperly executed application, the applicant shall be notified by Plant Protection and Quarantine of the deficiency of the application. If the applicant fails to supply the deficient information or otherwise fails to correct the deficiency within 60 days following the receipt of the notification by the applicant, the application shall be considered abandoned.

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[4] Application forms are available without charge from Regulatory Services Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Federal Building, Hyattsville, MD 20782, or from local offices at any of the ports designated in 50 CFR Part 24. Telephone numbers and addresses of local offices are listed in telephone directories.

(g) Upon receipt of an application filed with an insufficient fee, or without a fee, the application and any fee submitted will be returned to the applicant.

(h) A general permit shall be valid for 2 years from the date of issuance unless suspended or revoked pursuant to paragraph (i) of this section. A new application must be submitted for the renewal of the general permit. A general permit shall not be transferred, tampered with, amended or otherwise altered in any manner or form by any person.

(i)(1) Any application for a general permit may be denied and any general permit which has been issued may be suspended or revoked for a time specified by the Deputy Administrator for any of the reasons provided in paragraph (i)(2) of this section. Before such action is taken, the applicant or permittee will be informed of the reasons for the proposed action, and upon request, shall be afforded an opportunity for a hearing with respect to the merits or validity of such action, in accordance with rules of practice which shall be adopted for the proceeding. However, such denial, suspension or revocation may become effective pending final determination in the proceeding, if the permittee has been convicted or a criminal violation of the Act, or of any regulation, permit, or certificate issued under the Act. Such denial, suspension or revocation shall be effective upon oral or written notification, whichever is earlier, to the permittee. In the event of oral notification of the denial, suspension or revocation, written confirmation shall be given to the permittee as promptly as circumstances allow. This denial, suspension or revocation shall continue in effect pending the completion of the proceeding and any judicial review thereof, unless otherwise ordered by the Deputy Administrator.

(2) An application for a general permit may be denied and any general permit which has been issued may be suspended or revoked if:

(i) Any requirement of this subpart is not complied with, or

(ii) The applicant, permittee, or a person responsibly connected with the business of the applicant or permittee has been criminally convicted or had a civil penalty imposed for a violation of the Act or of any regulation, permit, or certificate issued under the Act, or

(iii) The applicant, permittee, or a person responsibly connected with the business of the applicant or permittee has been convicted of any crime involving fraud, bribery, extortion, or any other crime involving a lack of integrity needed for the conduct of operations concerning the importation, exportation, or reexportation of terrestrial plants listed in 50 CFR 17.12 or 23.23.

(3) For the purposes of this section, a person shall be deemed to be responsibly connected with the business of the applicant or permittee if the person is a partner, officer, director, holder, or owner of 10 percent or more or its voting stock, or an employee in a managerial or executive capacity.

(Information collection requirements were approved by the Office of Management and Budget under control number 0579-0076)

Subpart—Inspections and Related Provisions

§ 355.20 Marketing and notification requirements for plants imported, exported, or reexported by means other than mail. [5]

(a) Any terrestrial plant which is to be imported, exported, or reexported

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[5] Certain terrestrial plants listed in Appendices I, II, or III of the Convention or determined by the U.S. Department of the Interior to be endangered or threatened or similar in appearance to endangered or threatened species are required to be accompanied by documentation at the time of importation, exportation, or reexportation (see 50 CFR Chapter I). Plants are allowed to be imported, exported or reexported only at ports authorized for such purposes by the U.S. Department of the Interior, or, under certain circumstances as determined by the U.S. Department of the Interior, at nondesignated

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by means other than mail and which may be imported, exported, or reexported under 50 CFR Part 17 or Part 23 only if accompanied by documentation, shall at the time of importation, exportation, or reexportation plainly and correctly bear on the outer container or on a tag, invoice, packing list, or other document accompanying the plant, the following information:

(1) Genus and species, and quantity of each (if a hybrid, genus of each parent, and quantity of each hybrid),

(2) Country and locality where collected from the wild or where produced from cultivated stock,

(3) Name and address (in the United States if exported or reexported) of shipper, owner or person shipping or forwarding the plants,

(4) Name and address (in the United States if imported) of consignee,

(5) Identifying shipper's mark and number, and

(6) Serial number and type (e.g., permit, certificate) of document issued for the importation, exportation, or reexportation of the plant.

(b) Promptly upon arrival at a port of import (listed in 50 CFR Part 24, or, if allowed by the U.S. Department of the Interior, at a nondesignated port) of any terrestrial plant which is imported by means other than mail and which may be imported under 50 CFR Part 17 or Part 23 only if accompanied by documentation, the importer shall notify Plant Protection and Quarantine of the arrival and of the genus and species of the plant by such means as a manifest, Customs entry document, commercial invoice, waybill, broker's document, or notice form provided for that purpose.

(c) Prior to the exportation or reexportation of any terrestrial plant which is to be exported or reexported by other than mail and which may be exported or reexported under 50 CFR Part 17 or Part 23 only if accompanied by documentation, the exporter or reexporter shall notify Plant Protection and Quarantine of the intended exportation or reexportation and of the genus and species of the plant by such means as a manifest, commercial invoice, waybill, broker's document, or notice form provided for that purpose.

(Information collection requirements were approved by the Office of Budget and Management under control number 0579-0076)

§ 355.21 Marking and mailing requirements for plants imported, exported, or reexported by mail.[5]

(a) Any terrestrial plant which is to be imported by mail and which may be imported under 50 CFR Part 17 or Part 23 only if accompanied by documentation, shall be mailed to Plant Protection and Quarantine (at a port authorized for such purpose by the U.S. Department of the Interior in 50 CFR Part 24 pursuant to section 9(f) of the Act (16 U.S.C. 1538 (f))); and shall be accompanied by a separate sheet of paper within the package plainly and correctly bearing the name, address, and telephone number of the intended recipient in the United States; and shall plainly and correctly bear on the outer container the following information:

(1) Genus and species, and quantity of each (if a hybrid, genus of each parent, and quantity of each hybrid),

(2) Country and locality where collected from the wild or where produced from cultivated stock,

(3) Name and address of shipper, owner, or person shipping or forwarding the plants, and

(4) Serial number and type (e.g. permit, certificate) of document issued for the importation of the plant.

(b) Any terrestrial plant which is to be exported or reexported by mail and which may be exported or reexported under 50 CFR Part 17 or Part 23 only if accompanied by documentation, shall be mailed to Plant Protection and Quarantine (at a port authorized for such purpose by the U.S. Department of the Interior in 50 CFR Part 24 pursuant to section 9(f) of the Act (16 U.S.C. 1538(f))); shall be wrapped in double wrapping, with an unsealed inner wrapping addressed to the foreign recipient and bearing sufficient postage for mailing to the foreign destination; shall be accompanied by a separate sheet of paper within the

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ports, pursuant to section 9(f) of the Act (16 U.S.C. 1538(f)). (see 50 CFR Part 24 for a list of designated ports.)

package plainly and correctly bearing the following information:

(1) Genus and species, and quantity of each (if a hybrid, genus of each parent, and quantity of each hybrid),

(2) Country and locality where collected from the wild or where produced from cultivated stock,

(3) Name and address in the United States of shipper, owner, or person shipping or forwarding the plants, and

(4) Serial number and type (e.g. permit, certificate) of document issued for the exportation or reexportation of the plant.

(Information collection requirements were approved by the Office of Budget and Management under control number 0579-0076)

§ 355.22 Validation of documentation.

(a) Documentation for any mailed or nonmailed terrestrial plant which is required to have documentation under 50 CFR Part 17 or Part 23 at the time of importation, must be validated by an inspector prior to movement of such plant from the Customs inspection area at the port of entry. The original documentation must be surrendered to the inspector at the time of validation.

(b) Documentation for any mailed or nonmailed terrestrial plant which is listed in 50 CFR 17.12 or 23.23 and which is required to have documentation under 50 CFR Part 17 or Part 23 at the time of exportation or reexportation, must be validated at the port of export or reexport by an inspector prior to the exportation or reexportation of such plant.[6] The original and one copy of the documentation must be submitted for validation, and the copy must be surrendered to the inspector at the time of validation.

(c) Documentation for a plant shall be validated under this section upon endorsement of the documentation by an inspector when he or she determines that the plant was apparently eligible for importation, exportation, or reexportation in accordance with the provisions of this part and the provisions of 50 CFR Chapter I relating to the Act and Convention.

(d) To obtain validation of documentation, the importer, exporter, or reexporter, or agent thereof, shall make available to an inspector:

(1) All shipping documents (including bills of lading, waybills, packing lists, and invoices):

(2) All documents required by the Act and Convention; and

(3) The plant being imported, exported, or reexported.

(Information collection requirements were approved by the Office of Budget and Management under control number 0579-0076)

§ 355.23 Recordkeeping, access, and reports.

(a) Any person engaged in business as an importer, exporter, or reexporter of terrestrial plants listed in 50 CFR Part 17 or Part 23 shall keep such records as will fully and correctly disclose each importation, exportation, or reexportation of terrestrial plants made by such person and the subsequent disposition made by such person of the plants. Such records shall include shipping documents for each shipment of plants imported, exported, or reexported; a description of the form of the plants (such as whole live plants, cuttings, seeds, or other specific parts or derivatives of plants); the scientific and common names of the plants; the country or place of origin of the plants; the date and place of importation, exportation, or reexportation of the plants; the number (weight if the plants cannot be quantified by number) and specific location of plants; the date and means of subsequent disposition of the plants, whether by sale, barter, consignment, loan, delivery, destruction, or other means; and names and addresses of persons to whom the plants were disposed, if applicable.

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[6] It is the policy of the Department of Agriculture to allow, if inspectors are available, terrestrial plants listed in 50 CFR 17.12 or 23.23 which are intended for export to be inspected at the premises where such plants are grown. However, the documentation required for the export of such plants by 50 CFR Part 17 or Part 23 shall only be validated at the port of export and only when such plants are presented at the port for export together with the documents required by 50 CFR Part 17 or Part 23 and a certified statement by the inspector who inspected the plants that the plants are apparently eligible for exportation in accordance with the provisions of this part and provisions of 50 CFR Chapter I relating to the Act and Convention. Plants which have been previously inspected must be exported through a designated port (unless allowed by the United States Department of the Interior to be exported through a nondesignated port) in order to comply with section 9(f) of the Act [16 U.S.C. 1538(f)]. Plants which are inspected at the premises of origin must be available at the port of export for monitoring inspections and for other inspections deemed need for enforcement purposes, but, unless so inspected, will not need to be unpacked, inspected and repacked at the port. Information concerning the availability of inspectors to conduct inspections at the premise of origin may be obtained by calling local offices of Plant Protection and Quarantine, which are listed in telephone directories, or by writing NPPS, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, Federal Building, Hyattsville, MD 20782.

(b) Every record required to be kept under this section shall be kept for a period of 5 years after the occurrence of the transactions to which the records relate, and for such further time as the Deputy Administrator may require by written notice to the person required to keep such records under this part for purposes of any investigation, litigation, or other proceeding under the Act or this part.

(c) Any person engaged in business as an importer, exporter, or reexporter of terrestrial plants listed in 50 CFR Part 17 or Part 23 shall, upon presentation of credentials by an inspector or duly authorized representatives of the Secretary; during ordinary business hours of the person given notice, afford such inspector access to the person's place of business, the opportunity to examine the person's inventory of plants and the records required to be kept under paragraph (a) of this section, and the opportunity to copy such records. The use of a room, table, or other facilities (other than reproduction equipment) necessary for examination and copying of records and for such examination of inventory shall be afforded such inspector.

(d) Any person engaged in business as an importer, exporter, or reexporter of terrestrial plants listed in 50 CFR Part 17 or Part 23, upon written request by the Deputy Administrator, shall submit within 60 days of such request, a report concerning any of the information required to be maintained under paragraphs (a) and (b) of this section.

(Information collection requirements were approved by the Office of Budget and Management under control number 0579-0076)

PART 356—FORFEITURE PROCEDURES

Sec.

356.1 Property subject to forfeiture procedures.
356.2 Appraisement.
356.3 Property valued at greater than $10,000: Notice of seizure and civil action to obtain forfeiture.
356.4 Property valued at $10,000 or less: Notice of seizure and administrative action to obtain forfeiture.
356.5 Bonded release
356.6 Storage of property.
356.7 Petition for remission or mitigation of forfeiture.
356.8 Return procedure.
356.9 Filing of documents.

AUTHORITY: Sec. 11(f) as amended, 87 Stat. 897(f) as amended (16 U.S.C. 1540(f)); sec. 5, 95 Stat. 1076 (16 U.S.C. 3374); 7 CFR 2.17, 2.51, 371.2(c).

SOURCE: 49 FR 42916, Oct. 25, 1984, unless otherwise noted.

§ 356.1 Property subject to forfeiture procedures.

This part sets forth procedures relating to the forfeiture of any plant, equipment, means of conveyance or other property [1] seized under the Endangered Species Act of 1973, as amended, (16 U.S.C. 1531 *et seq.*) or the Lacey Act Amendments of 1981 (16 U.S.C. 3371 *et seq.*),[2] in possession

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[1] Under section 11(e)(4) of the Endangered Species Act ("Act"; 16 U.S.C. 1540(e)(4)) any such equipment and means of conveyance would be subject to forfeiture upon conviction of a criminal violation pursuant to section 11(b)(1) of the Act (16 U.S.C. 1540(b)(1)); however, such a plant may be subject to forfeiture regardless of whether a criminal conviction is obtained.

[2] Under section 5(a)(2) of the Lacey Act Amendments of 1981 (16 U.S.C. 3374(a)(2)) USDA has authority to initiate forfeiture proceedings against all vessels, vehicles, aircraft, and other equipment used to aid in the importation or exportation of plants in

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(actual or constructive) of the United States Department of Agriculture, and subject to forfeiture under these Acts because of activities pertaining to the importation, exportation, or reexportation of terrestrial plants.

[49 FR 46336, Nov. 26, 1984]

§ 356.2 Appraisement.

Promptly following the seizure or other receipt of property specified in § 356.1, the Deputy Administrator shall determine the retail value of such property in the same quantity or quantities as seized. If the property may lawfully be sold in the United States, the value thereof shall be determined by ascertaining the price at which the property or similar property in the ordinary course of trade is freely offered for sale at the time of appraisement, and at a principal market as close as possible to the place of appraisement. If the property may not lawfully be sold in the United States, the value thereof shall be determined by other reasonable means.

§ 356.3 Property valued at greater than $10,000; notice of seizure and civil action to obtain forfeiture.

Promptly following the seizures or other receipt of any property specified in § 356.1 and determined under § 356.2 to have a value greater than $10,000, the Deputy Administrator shall mail a notice of seizure by registered or certified mail to the current or last known or reasonable ascertainable address, return receipt requested, to persons known or reasonably ascertained to be the owner or agent of the seized property and to any other person having an interest in the property. Such notice shall describe the seized property, shall state the time, date, place, and reason for the seizure, that there is a right to petition for remission or mitigation of forfeiture pursuant to § 356.7, and shall state that action shall be taken in accordance with this part. Promptly following the seizure of such property, the Secretary shall also submit a report concerning such property to the United States Attorney for the district in which the seizure was made for institution of forfeiture proceedings in the United States District Court. The report shall provide a statement of all the relevant facts and circumstances of the case, including the names of the witnesses, and a citation to the laws believed to have been violated and on which reliance may be had for forfeiture.

§ 356.4 Property valued at $10,000 or less; notice of seizure administrative action to obtain forfeiture.

(a) *When authorized.* The Secretary shall take measures to obtain forfeiture in accordance with this section of any property specified in § 356.1 and determined under § 356.2 to have a value of $10,000 or less.

(b) *Waiver of forfeiture procedures by owner of seized property.* A person claiming to be an owner or to have an interest in any property specified in § 356.1 with a value of $10,000 or less may waive any rights to any procedures relating to forfeiture under this subpart by signing a statement providing for waiver of such rights. (1) The Deputy Administrator shall publish a copy of the notice of seizure and proposed forfeiture as provided in paragraph (c)(1) of this section, by posting for 21 days in a conspicuous place accessible to the public at the Plant Protection and Quarantine Enforcement office nearest the place of seizure. The time and date of posting shall be indicated on the notice. (2) Upon the execution of such statement and following publication of the notice for 21 days as provided in paragraph (c)(1) of

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a criminal violation of the Lacey Act Amendments of 1981 for which a felony conviction has been obtained if (a) the owner of such vessel, vehicle, aircraft, or equipment was at the time of the alleged illegal act a consenting part or privy thereto or in the exercise of due care should have known that such vessel, vehicle, aircraft, or equipment would be used in a criminal violation of the Lacey Act Amendments of 1981, and (b) the violation involved the sale or purchase of, the offer of sale or purchase of, or the intent to sell or purchase plants. However, under section 5(a)(1) of the Lacey Act Amendments of 1981 (16 U.S.C. 3474(a)(1) plants seized for violations of the Amendments are subject to forfeiture regardless of whether a civil penalty assessment or criminal conviction is obtained.

this section, any interest in such property by such owner shall become forfeited under the Act without further action under this subpart, and the Deputy Administrator shall not be required to send such owner any notices or declarations otherwise required by this subpart.

(c) *Procedure absent waiver of forfeiture procedures by owner.*

(1) Notice of seizure and proposed forfeiture. Promptly following seizure of property, the Deputy Administrator shall issue a notice of seizure and proposed forfeiture. The notice shall be in substantially the same form as a complaint for forfeiture filed in the United States District Court. The notice shall describe the seized property, including any identification numbers, such as the license, registration, motor, and serial numbers for a motor vehicle. The notice shall state the time, date, and place of seizure; the reason for seizure; and shall specify the value of the property as determined under § 356.2. The notice shall contain specific reference to the provisions of the Act, permit, certificate, or regulations allegedly violated and under which the property is subject to forfeiture. The notice shall state that any person desiring to claim the property must file a claim and a bond in accordance with paragraph (c)(2) of this section, and shall state that if a proper claim and bond are not received by the specified office within the time prescribed by such paragraph, the property will be declared forfeited to the United States and disposed of according to law. The notice shall also advise interested persons of their right to file a petition for remission or mitigation of forfeiture in accordance with § 356.7.

(i) Promptly following the seizure, The Deputy Administrator shall mail a copy of the notice by registered or certified mail, return receipt requested, to persons known or reasonably ascertained to be the owner or agent of the seized property, and to any other person having an interest in the property, if such owner or agent or other person and their address is known or reasonably ascertainable.

(ii) *Publication.* Promptly following the seizure, the Deputy Administrator shall publish a copy of the notice by posting for 21 days in a conspicuous place accessible to the public at the Plant Protection and Quarantine enforcement office nearest the place of seizure. The time and date of posting shall be indicated on the notice.

(2) *Filing a claim and bond.* Upon issuance of the notice of proposed forfeiture, any person claiming ownership of or other interest in the seized property may file with the office specified in the notice a claim to the property and a bond in the amount of $250, with sureties to be approved by the Deputy Administrator, conditioned that in case of condemnation of the articles so claimed, the obligor shall pay all the costs and expenses of the proceedings to obtain such condemnation. Any claim and bond must be received in such office within 20 days after posting of the notice of proposed forfeiture, and shall state claimant's interest in the property. The Deputy Administrator may extend the 20 day period with an appropriate statement on the posted notice of proposed forfeiture, if necessary, to allow a person deemed to have an interest in the property at least 10 days to file such a claim and bond after receipt of a notice of proposed forfeiture. The bond shall be on a United States Customs Form 4615 or on a similar form provided by Plant Protection and Quarantine. There shall be endorsed on the bond a list or schedule in substantially the following form which shall be signed by the claimant in the presence of the witnesses to the bond, and attested by the witnesses:

List or schedule containing a description of seized articles, claim for which is covered by the bond:

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The foregoing list is correct.

____

Claimant

Attest:

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The claim and bond referred to in the paragraph shall not entitle the claimant or any other person to possession of the property.

(3) *Transmittal to United States Attorney.* As soon as practicable after timely receipt by the specified office of a proper claim and bond in accordance with paragraph (c)(2) of this section, the Secretary shall transmit such claim, bond (with a duplicate list and description of the articles seized), and a report as described in § 356.3 to the United States Attorney for the district in which seizure was made for forfeiture proceedings in the United States District Court.

(d) *Summary forfeiture.* If a proper claim and bond are not received by the specified office within the time periods as specified in paragraph (c)(2) of this section, the property shall be forfeited and the Deputy Administrator shall prepare a declaration of forfeiture. The declaration of forfeiture shall be in writing, and the Deputy Administrator shall send such declaration by registered or certified mail, return receipt requested, to each person whose whereabouts and prior interests in the seized property are known or reasonably ascertainable. The declaration shall be in substantially the same form as a default judgment of forfeiture entered in United States District Court. The declaration shall describe the property and state the time, date, place, and reason for its seizure. The declaration shall identify the notice of proposed forfeiture, describing the dates and manner of publication of the notice and any efforts made to serve the notice personally or by mail. The declaration shall state that in response to the notice a proper claim and bond were not timely received by the proper office from any claimant, and that, therefore, all potential claimants are deemed to admit the truth of the allegations of the notice. The declaration shall conclude with an order of condemnation and forfeiture of the property to the United States for disposition according to law.

(Information collection requirements were approved by the Office of Budget and Management under control number 0579-0076)

§ 356.5 Bonded release.

(a) The Deputy Administrator may accept a bond or other security, in the amount of the value of the property as determined under § 356.3, in place of any property specified in § 356.1 and release the property to the owner or agent of the property, if such action would not frustrate the purposes of the Act and Convention. As an example, this section does not allow the release of terrestrial plants that are without documentation required under 50 CFR Chapter I.

(b) Any request for the return of property based on the acceptance of a bond or other security shall be submitted in writing to the Deputy Administrator. The request shall include evidence to establish that the person making the request is the sole owner of the property referred to in the request or is the agent of the sole owner of such property. A response in writing, granting or denying the request, and the reasons therefor, shall be sent to the person making the request.

§ 356.6 Storage of property.

Following the seizure or other receipt of any property specified in § 356.1 and valued at $10,000 or less, the property shall remain in the custody of the Deputy Administrator pending disposition. Pending such disposition, the property shall be stored in such place, as, in the opinion of the Deputy Administrator, is most convenient and appropriate with due regard to the expense involved, whether or not the place of storage is within the judicial district in which the property was seized.

§ 356.7 Petition for remission or mitigation of forfeiture.

(a) Any person who has an interest in any property specified in § 356.1 and valued at $10,000 or less, or any person who has incurred or is alleged to have incurred a forfeiture of any such property, may file with the Deputy Administrator a petition for remission or mitigation of forfeiture while the property is in the custody of the Deputy Administrator.

(b) A petition filed with the Deputy Administrator need not be in any particular form, but must contain the following:

(1) A description of the property;

(2) The time, date, and place of seizure;

(3) Evidence of the petitioner's interest in the property such as contracts, bills of sale, invoices, security interests, certificates of title; and

(4) A statement of all facts and circumstances relied upon by the petitioners to justify remission or mitigation of the forfeiture.

(c) The petition shall be signed by the petitioner or the petitioner's attorney at law. If the petitioner is a business, the petition must be signed by a partner, officer, or petitioner's attorney at law.

(d) Upon receiving the petition, the Deputy Administrator shall decide whether or not to grant relief. In making a decision, the Deputy Administrator shall consider the information submitted by the petitioner, as well as any other available information relating to the matter, and may require that testimony be taken concerning the petition.

(e) If the Deputy Administrator finds that the forfeiture was incurred without willful negligence or without any intention on the part of the petitioner to violate the law or finds the existence of such mitigating circumstances as to justify remission or mitigation of the forfeiture or alleged forfeiture, the Deputy Administrator may remit or mitigate the same upon terms and conditions as he deems reasonable and just. However, remission or mitigation will not be made if such action would frustrate the purposes of the Act or Convention. As an example, this section does not allow remission or mitigation with respect to terrestrial plants that are without documentation required under 50 CFR Chapter I.

(f) The Deputy Administrator shall notify the petitioner in writing concerning whether the petition was granted or denied, and shall state the reasons therefor. If the petition is denied fully or in part, the petitioner may then file a supplemental petition, but no supplemental petition shall be considered unless it is received within 60 days from the date of the Deputy Administrator's notification concerning the original petition. The Deputy Administrator shall notify the petitioner in writing concerning the action taken in response to the supplemental petition, and shall state the reasons therefor.

(Information collection requirements were approved by the Office of Budget and Management under control number 0579-0076)

§ 356.8 Return procedure.

If, at the conclusion of proceedings, seized property is to be returned to the person determined to be the owner or agent thereof, the Deputy Administrator shall issue a letter or other document to the person determined to be owner or agent thereof authorizing its return. This letter shall be delivered personally or sent by registered or certified mail, return receipt requested, and shall identify the person determined to be the owner or agent, the seized property, and if appropriate, the bailee of the seized property. It shall also provide that upon presentation of the letter or other document and proper identification, and the signing of a receipt provided by Plant Protection and Quarantine, the seized property is authorized to be released.

§ 356.9 Filing of documents.

(a) Any document required by this subpart to be filed or served within a certain period of time, will be considered filed or served as of the time of receipt by the party with or upon whom filing or service is required.

(b) Saturdays, Sundays, and federal holidays shall be included in computing the time allowed for the filing or serving of any document or paper; except that when such time expires on a Saturday, Sunday or federal holiday, such period shall be extended to include the next following business day.

PART 360—NOXIOUS WEED REGULATIONS

Sec.
360.100 Definitions.
360.200 Designation of noxious weeds.
360.300 Permits for movement of noxious weeds.

AUTHORITY: Secs. 4, 10; 88 Stat. 2149, 2151; 7 U.S.C. 2803, 2809; 41 FR 4251, unless otherwise noted.

§ 360.100 Definitions.

(a) As used in this part, words in the singular form shall be deemed to import the plural and vice versa, as the case may require.

(b) As used in this part, the terms as defined in section 3 of the Act (7 U.S.C. 2802) shall apply with equal force and effect. In addition and except as may be provided otherwise in this part the following words shall be construed, respectively, to mean:

Department. The United States Department of Agriculture.

Deputy Administrator. The Deputy Administrator of the Plant Protection and Quarantine Programs of the Animal and Plant Health Inspection Service of the Department, or any other officer or employee of the Plant Protection and Quarantine Programs to whom authority has heretofore been delegated or may hereafter be delegated to act in his stead.

Plant Protection and Quarantine Programs. The Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service of the Department.

[41 FR 49988, Nov. 12, 1976]

§ 360.200 Designation of noxious weeds.[1]

Pursuant to the provisions of section 10 of the Federal Noxious Weed Act of 1974 (7 U.S.C. 2809) the Secretary of Agriculture, after publication of the required notice of proposal and after public hearing on the proposal when requested by any interested person, has determined based upon the information received at any such hearing and other information available to the Secretary, that the following plants are within the definition of a "noxious weed" in section 3(c) of the Act (7 U.S.C. 2802(c)) and that their dissemination in the United States may reasonably be expected to have, to a serious degree, an effect specified in said section 3(c) of the Act:

(a) *Aquatic Weeds:*

- *Azolla pinnata* R. Brown (mosquito fern, water velvet)
- *Eichornia azurea* (Swartz) Kunth (anchored waterhyacinth, rooted waterhyacinth)
- *Hydrilla verticillata* (Linnaeus f.) Royle (hydrilla)
- *Hygrophila polysperma* T. Anderson (Miramar weed)
- *Ipomoea aquatica* Forsskal (water-spinach, swamp morning-glory)
- *Lagarosiphon major* (Ridley) Moss
- *Limnophila sessiliflora* (Vahl) Blume (ambulia)
- *Monochoria hastata* (Linnaeus) Solms-Laubach
- *Monochoria vaginalis* (Burman f.) C. Presl
- *Sagittaria sagittifolia* Linnaeus (arrowhead)
- *Salvinia auriculata* Aublet (giant salvinia)
- *Salvinia biloba* Raddi (giant salvinia)
- *Salvinia herzogii* de la Sota (giant salvinia)
- *Salvinia molesta* D.S. Mitchell (giant salvinia)
- *Sparganium erectum* Linnaeus (exotic burreed)
- *Stratiotes aloides* Linnaeus (water-aloe)

(b) *Parasitic Weeds:*

- *Aeginetia* spp.
- *Alectra* spp.
- *Cuscuta* spp. (dodders), other than following species:
  - *Cuscuta americana* Linnaeus
  - *Cuscuta applanata* Engelmann
  - *Cuscuta approximata* Babington
  - *Cuscuta attenuata* Waterfall
  - *Cuscuta boldinghii* Urban
  - *Cuscuta brachycalyx* (Yuncker) Yuncker
  - *Cuscuta californica* Hooker & Arnott
  - *Cuscuta campestris* Yuncker
  - *Cuscuta cassytoides* Nees ex Engelmann
  - *Cuscuta ceanothii* Behr
  - *Cuscuta cephalanthii* Engelmann
  - *Cuscuta compacta* Jussieu
  - *Cuscuta corylii* Engelmann
  - *Cuscuta cuspidata* Engelmann
  - *Cuscuta decipiens* Yuncker
  - *Cuscuta dentatasquamata* Yuncker
  - *Cuscuta denticulata* Engelmann
  - *Cuscuta epilinum* Weihe
  - *Cuscuta epithymum* (Linnaeus) Linnaeus
  - *Cuscuta erosa* Yuncker
  - *Cuscuta europaea* Linnaeus
  - *Cuscuta exalta* Engelmann
  - *Cuscuta fasciculata* Yuncker
  - *Cuscuta glabrior* (Engelmann) Yuncker
  - *Cuscuta globulosa* Bentham
  - *Cuscuta glomerata* Choisy
  - *Cuscuta gronovii* Willdenow
  - *Cuscuta harperi* Small
  - *Cuscuta howelliana* Rubtzoff

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[1] One or more common names of weeds are given in parentheses after most scientific names to help identify the weeds represented by such scientific names; however, a scientific name is intended to include all weeds within the genus or species represented by the scientific name, regardless of whether the common name or names are as comprehensive in scope as the scientific name.

  - *Cuscuta indecora* Choisy
  - *Cuscuta jepsonii* Yuncker
  - *Cuscuta leptantha* Engelmann
  - *Cuscuta mitriformis* Engelmann
  - *Cuscuta nevadensis* I. M. Johnston
  - *Cuscuta obtusiflora* Humboldt, Bonpland, & Kunth
  - *Cuscuta occidentalis* Millspaugh ex Mill & Nuttall
  - *Cuscuta odontolepis* Engelmann
  - *Cuscuta pentagona* Engelmann
  - *Cuscuta planiflora* Tenore
  - *Cuscuta plattensis* A. Nelson
  - *Cuscuta polygonorum* Engelmann
  - *Cuscuta rostrata* Shuttleworth ex Engelmann
  - *Cuscuta runyonii* Yuncker
  - *Cuscuta salina* Engelmann
  - *Cuscuta sandwichiana* Choisy
  - *Cuscuta squamata* Engelmann
  - *Cuscuta suaveolens* Seringe
  - *Cuscuta suksdorfii* Yuncker
  - *Cuscuta tuberculata* Brandegee
  - *Cuscuta umbellata* Humboldt, Bonpland, & Kunth
  - *Cuscuta umbrosa* Beyrich ex Hooker
  - *Cuscuta vetchii* Brandegee
  - *Cuscuta warneri* Yuncker
- *Orobanche* spp. (broomrapes), other than the following species:
  - *Orobanche bulbosa* (Gray) G. Beck
  - *Orobanche californica* Schlechtendal & Chamisso
  - *Orobanche cooperi* (Gray) Heller
  - *Orobanche corymbosa* (Rydberg) Ferris
  - *Orobanche dugesii* (S. Watson) Munz
  - *Orobanche fasciculata* Nuttall
  - *Orobanche ludoviciana* Nuttall
  - *Orobanche multicaulis* Brandegee
  - *Orobanche parishii* (Jepson) Heckard
  - *Orobanche pinorum* Geyer ex Hooker
  - *Orobanche uniflora* Linnaeus
  - *Orobanche valida* Jepson
  - *Orobanche vallicola* (Jepson) Heckard
- *Striga* spp. (witchweeds)

(c) *Terrestrial Weeds:*

- *Ageratina adenophora* (Sprengel) King & Robinson (crofton weed)
- *Alternanthera sessilis* (Linnaeus) R. Brown ex de Candolle (sessile joyweed)
- *Asphodelus fistulosus* Linnaeus (onionweed)
- *Avena sterilis* Linnaeus (including *Avena ludoviciana* Durieu) (animated oat, wild oat)
- *Borreria alata* (Aublet) de Candolle
- *Carthamus oxyacantha* M. Bieberstein (wild safflower)
- *Chrysopogon aciculatus* (Retzius) Trinius (pilipiliula)
- *Commelina benghalensis* Linnaeus (Benghal dayflower)
- *Crupina vulgaris* Cassini (common crupina)
- *Digitaria scalarum* (Schweinfurth) Chiovenda (African couchgrass, fingergrass)
- *Digitaria velutina* (Forsskal) Palisot de Beauvois (velvet fingergrass, annual conchgrass)
- *Drymaria arenarioides* Humboldt & Bonpland ex Roemer & Schultes (lightning weed)
- *Emex australis* Steinheil (three-cornered jack)
- *Emex spinosa* (Linnaeus) Campdera (devil's thorn)
- *Euphorbia prunifolia* Jacquin (painted euphorbia)
- *Galega officinalis* Linnaeus (goatsrue)
- *Heracleum mantegazzianum* Sommier & Levier (giant hogweed)
- *Imperata brasiliensis* Trinius (Brazilian satintail)
- *Imperata cylindrica* (Linnaeus) Raeuschel (cogongrass)
- *Ipomoea triloba* Linnaeus (little bell, aiea morning-glory)
- *Ischaemum rugosum* Salisbury (murainograss)
- *Leptochloa chinensis* (Linnaeus) Nees (Asian sprangletop)
- *Lycium ferocissimum* Miers (African boxthorn)
- *Melastoma malabathricum* Linnaeus
- *Mikania cordata* (Burman f.) B. L. Robinson (mile-a-minute)
- *Mikania micrantha* Humboldt, Bonpland, & Kunth
- *Mimosa invisa* Martius (giant sensitive plant)
- *Mimosa pigra* Linneaus var. *pigra* (catclaw mimosa)
- *Nassella trichotoma* (Nees) Hackel ex Arechavaleta (serrated tussock)
- *Opuntia aurantiaca* Lindley (jointed prickly pear)
- *Oryza longistaminata* A. Chevalier & Roehrich (red rice)
- *Oryza punctata* Kotschy ex Steudel (red rice)
- *Oryza rufipogon* Griffith (red rice)
- *Paspalum scrobiculatum* Linnaeus (Kodomillet)
- *Pennisetum clandestinum* Hochstetter ex Chiovenda (kikuyugrass)
- *Pennisetum macrourum* Trinius (African feathergrass)
- *Pennisetum pedicellatum* Trinius (kyasumagrass)
- *Pennisetum polystachion* (Linnaeus) Schultes (missiongrass, thin napiergrass)
- *Prosopis alpataco* R. A. Philippi
- *Prosopis argentina* Burkart
- *Prosopis articulata* S. Watson
- *Prosopis burkartii* Munoz
- *Prosopis caldenia* Burkart
- *Prosopis calingastana* Burkart
- *Prosopis campestris* Griseback
- *Prosopis castellanosii* Burkart
- *Prosopis denudans* Bentham
- *Prosopis elata* (Burkart) Burkart

Prosopis farcta (Solander ex Russell) Macbride
Prosopis ferox Grisebach
Prosopis fiebrigii Harms
Prosopis hassleri Harms
Prosopis humilis Gillies ex Hooker & Arnott
Prosopis kuntzei Harms
Prosopis pallida (Humboldt & Bonpland ex Willdenow) Humboldt, Bonpland, & Kunth
Prosopis palmeri S. Watson
Prosopis reptans Bentham var. *reptans*
Prosopis rojasiana Burkart
Prosopis ruizlealii Burkart
Prosopis ruscifolia Grisebach
Prosopis sericantha Gillies ex Hooker & Arnott
Prosopis strombulifera (Lamarck) Bentham
Prosopis torquata (Cavanilles ex Lagasca y Segura) de Candolle
Rottboellia exaltata Linnaeus f. (itchgrass, raoulgrass)
Rubus fruticosus Linnaeus (complex) (wild blackberry)
Rubus moluccanus Linnaeus (wild raspberry)
Saccharum spontaneum Linnaeus (wild sugarcane)
Salsola vermiculata Linnaeus (wormleaf salsola)
Setaria pallide-fusca (Schumacher) Stapf & Hubbard (cattail grass)
Solanum torvum Swartz (turkeyberry)
Tridax procumbens Linnaeus (coat buttons)
Urochloa panicoides Beauvois (liverseed grass)

(Secs. 4, 10; 88 Stat. 2149, 2151; 7 U.S.C. 2803, 2809; 7 CFR 2.17, 2.51, and 371.2(c))

[48 FR 20039, May 4, 1983, as amended at 49 FR 25223, June 20, 1984]

§ 360.300 Permits for movement of noxious weeds.

(a) The Deputy Administrator shall issue a written permit for the movement of a noxious weed into or through the United States if application is made for such movement and if he determines that such movement under conditions specified in the permit would not involve a danger of dissemination of the noxious weed in the United States; otherwise such a permit shall not be issued. Application for such movement shall be made by filing a completed form of application with Permit Unit, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, Room 638, Federal Building, Hyattsville Maryland 20782.[1]

(b) All such permits issued shall contain in written form in the permit any conditions (other than those conditions specified in this part) under which the permit is to be granted, e.g. conditions with respect to shipment, storage, and destruction.

(c) If the permit is denied, the applicant shall be furnished the reasons therefor.

(d) The Deputy Administrator may revoke any outstanding permit issued under this section if he determines that there has been a failure to comply with any provision of the Act or this section, including conditions written on the permit. Upon request, any permit holder will be afforded an opportunity for a hearing with respect to the merits or validity of any such revocation involving his permit.

(Approved by the Office of Management and Budget under control number 0579-0054)

(44 U.S.C. 35)

[41 FR 49988, Nov. 12, 1976, as amended at 48 FR 57466, Dec. 30, 1983]

PART 370—FREEDOM OF INFORMATION

Sec.
370.1 Scope and purpose.
370.2 Published materials.
370.3 Index.
370.4 Facilities for inspection and copying.
370.5 Requests for records.
370.6 Appeals.
370.7 Agency response to requests.

AUTHORITY: Freedom of Information Act as amended (5 U.S.C. 552) Part 1, Subtitle A of this title.

SOURCE: 40 FR 43223, Sept. 19, 1975, unless otherwise noted.

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[1] Such forms of application are available without charge from the Permit Unit, Plant Protection and Quarantine Programs (PPQ), Animal and Plant Health Inspection Service, Room 638, Federal Building, Hyattsville, Maryland 20782, or local PPQ offices which are listed in telephone directories.

§ 370.1 Scope and purpose.

These regulations are issued pursuant to the Freedom of Information Act, as amended (5 U.S.C. 552), and in accordance with the requirements of the Department of Agriculture regulations in Part 1, Subpart A of this title. The availability of records of the Animal and Plant Health Inspection Service (APHIS), and the procedures by which the public may obtain such information, shall be governed by the Department regulations as implemented by the regulations in this part. It is the policy of APHIS to be an open agency and to promptly make available for public inspection any records or information which are required to be released under the Act. Material which is exempt from disclosure will also be promptly made available when the Agency in its discretion determines that release of such material is in the public interest.

§ 370.2 Published materials.

Rules and regulations of APHIS relating to its regulatory responsibilities are continuously published in the FEDERAL REGISTER, and codified in this Chapter III, Title 7, and in Chapter I, Title 9 of the Code of Federal Regulations. APHIS issues publications explaining animal and plant health programs and the laws and regulations, including quarantines, under which the programs are conducted. These publications are, for the most part available free from the Office of Governmental and Public Affairs, USDA, Washington, D.C. 20250; or, in some cases from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, at established rates.

[44 FR 53490, Sept. 14, 1979]

§ 370.3 Index.

Pursuant to the regulations in § 1.4(b) of this title, APHIS will maintain and make available for public inspection and copying a current index providing identifying information regarding the materials required to be published or made available under the Freedom of Information Act (5 U.S.C. 552(a)(2)). Notice is hereby given that publication of this index is unnecessary and impracticable, since the material is voluminous and does not change often enough to justify the expense of publication.

§ 370.4 Facilities for inspection and copying.

Facilities for public inspection and copying of the index and materials required to be made available under 5 U.S.C. 552(c)(2) will be provided by APHIS, on business days between 8 a.m. and 4:30 p.m. Requests for this information should be made to the FOIA Coordinator at the following address:

Freedom of Information Act Coordinator, Animal and Plant Health Inspection Service,6505 Belcrest Road, Room 264, Hyattsville, MD 20782.

Copies of such material may be obtained in person or by mail. Applicable fees for copies will be charged in accordance with the regulations prescribed by the Office of Operations and Finance, USDA, pursuant to § 2.75 of this title. See § 1.10 and Appendix A—Fee Schedule in Part 1, Subtitle A of this title.

[44 FR 53490, Sept. 14, 1979]

§ 370.5 Requests for records.

(a) Requests for APHIS records or information other than material published or made available under the preceding sections, shall be made in writing in accordance with 7 CFR 1.3(a) and submitted to the APHIS Freedom of Information Act Coordinator at the following address:

Freedom of Information Act Coordinator (FOIA Request), Animal and Plant Health Inspection Service, 6505 Belcrest Road, Room 264, Hyattsville, MD 20782.

The request shall identify each record with reasonable specificity as prescribed in § 1.3(b) of this title. The APHIS FOIA Coordinator is hereby delegated authority to make determinations with respect to such requests in accordance with 7 CFR.

(b) The FOIA Coordinator or his designee is authorized to receive requests and to exercise the authority under § 1.4(c) of this title to: (1) Make determinations to grant or deny requests, (2) extend the administrative deadline, (3) make discretionary releases of exempt records, and (4) make determinations regarding charges pursuant to the fee schedule.

(c) In exercising his authority under § 1.4(c) of this title to grant and deny requests, the Coordinator will comply with subsection (b) of the Freedom of Information Act, as amended (5 U.S.C. 552(b)), which requires that any reasonably segregable portion of a document shall be provided to a person requesting such document after deletion of any portions which are exempt under the Act. Therefore, unless the disclosable and non-disclosable portions are so inextricably linked that it is not reasonably possible to separate them, the document will be released with the non-disclosable portions deleted, except that the Coordinator may exercise discretion as limited by § 1.11 of this title, to release the entire document, or to make only a minimum number of deletions, e.g., the names of individuals.

[40 FR 43223, Sept. 19, 1975, as amended at 44 FR 53490, Sept. 14, 1979]

§ 370.6 Appeals.

If the request for information made under § 370.5 is denied in whole or in part, the requester may file an appeal pursuant to § 1.3(e) of this title. The appeal should be in writing and should be addressed as follows:

Administrator, Animal and Plant Health Inspection Service (FOIA Appeal), Room 313-E, U.S. Department of Agriculture, Washington, D.C. 20250.

[44 FR 53490, Sept. 14, 1979]

§ 370.7 Agency response to requests.

(a) The response to requests for information and to appeals shall be made in accordance with the Department regulations in § 1.5 of this title and the regulations in this part.

(b) Requests for records and information which have customarily been directed to field stations and agency headquarters may continue to be directed to those locations, notwithstanding the provisions of these regulations. If the information is not available at the location at which the request is made, or the official receiving the request is in doubt as to whether the information should be released, the official shall (1) promptly forward the request to the FOIA Coordinator, or (2) inform the requester of the procedures established in these regulations by which the request may be sent directly to the FOIA Coordinator. The date of receipt of the request by the Coordinator shall be the determining date for purposes of the time limitations under the Freedom of Information Act and the regulations.

PART 371—ORGANIZATION, FUNCTIONS AND DELEGATIONS OF AUTHORITY

Sec.

371.1 General statement.
371.2 The Office of the Administrator.
371.3 Plant protection and quarantine.
371.4 Veterinary services.
371.5 Administrative management.
371.6 Delegations of authority.
371.7 Concurrent authority and responsibility to the Administrator.
371.8 Reservation of authority.
371.9 Availability of information and records.

AUTHORITY: 5 U.S.C. 301.

§ 371.1 General statement.

(a) Animal and Plant Health Inspection Service, hereinafter referred to as APHIS was created by the Secretary of Agriculture on April 2, 1972 (37 FR 6327, March 28, 1972).

(b) *Central Office.* The central offices of APHIS are located at Washington, D.C., and Hyattsville, Maryland, and consist of the Office of the Administrator, Associate Administrator and three Deputy Administrators as follows:

OFFICE OF THE ADMINISTRATOR

Associate Administrator
Deputy Administrator, Plant Protection and Quarantine
Deputy Administrator, Veterinary Services
Deputy Administrator for Management and Budget
Legislative and Public Affairs Staff
Regulatory Coordination Staff

(c) *Field organizations:* The location of principal field offices are as follows for each major program:

(1) *Plant Protection and Quarantine.*

Regions

Northeastern: 505 South Lenola Road, Building Blason II, First Floor, Moorestown, NJ 08057
Southeastern: 3505 25th Avenue, P.O. Box 3659, Gulfport, MS 39501
South Central: 2100 Boca Chica Boulevard, Suite 400, Brownsville, TX 78521
Western: 83 Scripps Drive, Sacramento, CA 95825
Latin American: American Embassy, Reforma 305, Col. Cuauhtemoc 06500 Mexico, D.F. Mailing Address: c/o U.S. Embassy, Mexico City, P.O. Box 3087, Laredo, TX 78044.

(2) *Veterinary Services.*

Laboratories

National Veterinary Services Laboratories, P.O. Box 844, Ames, IA, 50010.

Regions

Western: 317 Inverness Way South, Englewood, CO, 80112.
Northern: Building 12, GSA Depot, Scotia, NY, 12302.
Southeastern: 700 Twiggs St., Room 820, P.O. Box 560, Tampa, FL, 33601.
Central: 221 West Lancaster Avenue, Suite 310, Forth Worth, TX, 76102.

(3) *Administrative Management.*

Field Servicing Office: Butler Square West, 100 North Sixth St., Minneapolis, MN 55403

[45 FR 8564, Feb. 8, 1980, as amended at 46 FR 7933, Jan. 26, 1981; 49 FR 19621, May 9, 1984; 49 FR 41009, Oct. 19, 1984; 50 FR 32159, Aug. 9, 1985; 50 FR 53259, Dec. 31, 1985]

§ 371.2 The Office of the Administrator.

(a) *The Administrator.* The Administrator of APHIS, under the direction of the Assistant Secretary for Marketing and Inspection Services, formulates, directs, and supervises the execution of APHIS policies, programs and activities. The Administrator is authorized to take any action, execute any document, authorize any expenditure, promulgate any rule, regulation, order or instruction required by or authorized by law and deemed by the Administrator to be necessary and proper to the discharge of the functions assigned to APHIS and to delegate, and provide for redelegation of authority to appropriate officers and employees consistent with, and with due regard to the continuing responsibility for the proper discharge of delegations made by the Administrator. Delegations and provisions for redelegations are stated in § 371.6.

(b) *The Associate Administrator.* The Associate Administrator shares overall responsibility with the Administrator for general direction and supervision of the programs and activities assigned to APHIS and is authorized to act for the Administrator in performing all functions for which the Administrator is responsible.

(c) *Deputy Administrator, Plant Protection and Quarantine.* The Deputy Administrator, Plant Protection and Quarantine (PPQ) is responsible for:

(1) Participating with the Administrator and other agency officials in the overall planning, formulation, and review of all policies, programs, procedures, and activities of APHIS.

(2) Planning, providing leadership, formulating and coordinating policies, developing and issuing regulations (including quarantines), and directing the administration of PPQ programs and activities. These programs and activities include:

(i) Section 102, Organic Act of September 21, 1944, as amended, and the Act of April 6, 1937, as amended (7 U.S.C. 147a, 148, 148a-148e), relating to control and eradication of plant pests and diseases;

(ii) The Mexican Border Act, as amended (7 U.S.C. 149);

(iii) The Golden Nematode Act (7 U.S.C. 150-150g);

(iv) The Federal Plant Pest Act, as amended (7 U.S.C. 150aa-150jj);

(v) The Plant Quarantine Act, as amended (7 U.S.C. 151-164a, 167);

(vi) The Terminal Inspection Act, as amended (7 U.S.C. 166);

(vii) The Honeybee Act, as amended (7 U.S.C. 281-282);

(viii) The Federal Noxious Weed Act of 1974 (7 U.S.C. 2801-2813);

(ix) The Endangered Species Act of 1973 (87 Stat. 884);

(x) Executive Order 11987;

(xi) The responsibilities of the United States under the International Plant Protection Convention;

(xii) Lacey Act Amendments of 1981 (16 U.S.C. 3401-3408); and

(xiii) Title III (and Title IV to the extent that it relates to activities under Title III) of the Federal Seed Act, as amended (7 U.S.C. 1581-1610).

(3) Cooperating with and providing technical assistance to State and local governments and certain Latin American countries in regard to plant protection programs and foreign governments and U.S. agencies with regard to pests and diseases of international quarantine significance and crop protection in developing countries.

(4) Providing for professional development and training of APHIS employees and training for foreign students in plant protection and quarantine.

These activities are carried out by four functional units: The National Program Planning Staff, Professional Development Staff, National Programs, International and Emergency Programs, and by regional and field offices.

(d) *Deputy Administrator, Veterinary Services.* The Deputy Administrator, Veterinary Services (VS) is responsible for:

(1) Participating with the Administrator and other agency officials in the overall planning, formulation, and review of all policies, programs and procedures, and activities of APHIS.

(2) Planning, providing leadership, formulating and coordinating policies, issuing regulations (including quarantines) pursuant to laws, and directing the administration of the national and international programs to protect the health of the Nation's livestock and poultry resources, assuring quality and safety of veterinary biologics, and providing for the welfare and humane treatment of certain animals, and related activities involving:

(i) Section 306 of the Tariff Act of June 17, 1930, as amended (19 U.S.C. 1306);

(ii) Act of August 30, 1890, as amended (21 U.S.C. 102-105);

(iii) Act of May 29, 1884, as amended, Act of February 2, 1903, as amended, and Act of March 3, 1905, as amended, and supplemental legislation (21 U.S.C. 111-114a, 114a-1, 115-130);

(iv) Act of February 28, 1947, as amended (21 U.S.C. 114b-114c, 114d-1);

(v) Act of June 16, 1948 (21 U.S.C. 114e-114f);

(vi) Act of September 6, 1961 (21 U.S.C. 114g-114h);

(vii) Act of July 2, 1962 (21 U.S.C. 134-134h);

(viii) Act of May 6, 1970 (21 U.S.C. 135-135b);

(ix) Sections 12-14 of the Federal Meat Inspection Act, as amended, and so much of section 18 of such Act as pertains to the issuance of certificates of condition of live animals intended and offered for export (21 U.S.C. 612-614, 618);

(x) Improvement of poultry, poultry products and hatcheries (7 U.S.C. 429);

(xi) (Laboratory) Animal Welfare Act, as amended (7 U.S.C. 2131-2147, 2149-2155);

(xii) Horse Protection Act (15 U.S.C. 1821-1831);

(xiii) 28 Hour Law, as amended (45 U.S.C. 71-74);

(xiv) Export Animal Accommodation Act, as amended (46 U.S.C. 466a-466b);

(xv) Purebred animal duty-free entry provision of Tariff Act of June 17, 1930, as amended (19 U.S.C. 1202, Part I, Item 100.01);

(xvi) Virus-Serum Toxin Act (21 U.S.C. 151-158);

(xvii) Sections 203 and 205 of the Agricultural Marketing Act of 1946, as amended with respect to voluntary inspection and certification of inedible animal byproducts and inspection, testing, treatment, and certification of animals and a program to investigate and develop solutions to the problems resulting from the use of sulfonamides in swine (7 U.S.C. 1622, 1624); and

(xviii) Section 101(d) of the Organic Act of September 21, 1944 (7 U.S.C. 430).

(xix) The Swine Health Protection Act (Pub. L. 96-468, 94 Stat. 2229 (7 U.S.C. 3901-3812)).

(xx) Conducting diagnostic and related activities necessary to prevent, detect, control or eradicate foot-and-mouth disease and other foreign animal diseases (21 U.S.C. 113a).

(3) Cooperating and providing technical assistance to State and local governments in regard to international quarantines and exotic animal disease programs.

(4) Providing for professional development and training of APHIS person-

nel and training of foreign visitors in veterinary service programs.

These activities are carried out by six functional units: the National Program Planning Staff, Professional Development Staff, National Veterinary Services Laboratories, Animal Health Programs, National Brucellosis Eradication Program, International Programs, and by regional and field offices.

(e) *Deputy Administrator for Management and Budget.* The Deputy Administrator for Management and Budget is responsible for:

(1) Participating with the Administrator and other agency officials in the overall planning and formulation of all policies, programs, and activities of APHIS oriented to the Nation's agricultural needs.

(2) Planning, providing leadership, formulating and coordinating policies, and directing administrative management support functions of the Agency, including EEO and Civil Rights, budget and finance, personnel, administrative services, and automated data processing activities.

(3) Advising and assisting the Administrator and other Agency officials on Agency legislative affairs. Providing advice and direction to legislative liaison and reporting requirements including the management, control and timely response to inquiries from members of Congress and others as referred by the White House or the Office of the Secretary. Providing advice and direction to the information and public affairs activities of the Agency.

(4) Providing for the leadership and guidance of the multi-year planning, programming, and evaluation of APHIS activities and programs toward stated goals based on cost benefit analysis and other analytical and review techniques.

(5) Providing leadership and guidance to the conduct of program and administrative reviews and inspections to test implementation of policies, procedures, administration and accomplishment of program and administrative objectives.

(6) Evaluating and taking final disposition on all administrative issuances.

(7) Coordinating General Accounting Office and Office of the Inspector General activities in APHIS.

(8) Administering the execution of cooperative agreements and Master Memoranda of Understanding; all agreements between APHIS and other agencies; and all agreements which require the signature of more than one Deputy Administrator.

(9) Approving for the Administrator, foreign travel, and attendance at international meetings.

(10) Providing leadership and coordination for activities associated with APHIS international programs. Administering the Foreign Service personnel system for employees of APHIS in accordance with section 202(a)(2) of the Foreign Service Act of 1980 (22 U.S.C. 3922), E.O. 12363, dated May 21, 1982), and the provisions of 7 CFR 2.51(a)(1).

(11) Providing management support services for the Federal Grain Inspection Service, the Office of Transportation, the Agricultural Cooperative Service, the Packers and Stockyards Administration, and the Agricultural Marketing Service as agreed upon by the agencies with authority to take actions required by law or regulation. As used herein, the term management support services includes budget, finance, personnel, procurement, property management, communications, paperwork management, and related administrative services.

(f) *Regulatory Coordination Staff.* The Regulatory Coordination Staff, under the direction and supervision of the Administrator, is responsible for:

(1) Advising Administrator and other key officials on matters pertaining to APHIS regulatory policy, including matters relating to FEDERAL REGISTER documents and enforcement activities.

(2) Developing and drafting proposed/final regulations and other documents for publication in the FEDERAL REGISTER (dockets). Reviewing dockets for adequacy, clarity and compliance with APHIS program policies, USDA policies, and applicable laws and regulations.

(3) Coordinating as appropriate, intra- and inter-agency review of FEDERAL REGISTER dockets. Establishing

and maintaining an agencywide clearance and control system for FEDERAL REGISTER documents, and related documents.

(4) Maintaining systems for monitoring existing regulations to determine their need, enforceability and burdens, consistent with Departmental policies and statutory requirements.

(5) Maintaining the official administrative record for APHIS FEDERAL REGISTER documents.

(6) Serving as focal point for analysis of agency and public comments on existing and proposed APHIS rules.

(7) Conducting public hearing concerning proposed APHIS regulatory actions.

(8) Maintaining liaison with the Office of the General Counsel and with other government agencies, including the FEDERAL REGISTER, Office of Management and Budget, Small Business Administration, and the Department of the Interior, concerning APHIS FEDERAL REGISTER documents.

(9) Providing advice to agency personnel in the preparation of various materials for agency or public distribution concerning APHIS FEDERAL REGISTER documents, such as press releases, economic analyses, regulatory impact statements, and replies to public inquiries.

(10) Conducting hearings in administrative enforcement proceedings assigned to be conducted by APHIS.

(g) *Legislative and Public Affairs Staff.* The Legislative and Public Affairs Staff, under the direction and supervision of the Administrator, is responsible for:

(1) Advising and assisting the Administrator and other Agency officials on all matters relating to Agency legislative affairs.

(2) Preparing legislative proposals in connection with APHIS programs and responsibilities, based on recommendations from program officials. Assisting in the development of support material for Agency witnesses for congressional hearings. Preparing legislative reports when requested by Congress.

(3) Establishing and maintaining liaison with Members of Congress, various congressional committees and subcommittees, and their staffs on all matters pertaining to the legislative affairs of APHIS. Providing Members of Congress with periodic updates on issues upon which they have demonstrated continuing interest.

(4) Planning, administering, providing leadership, and conducting an information program to promote interest in and increase the public knowledge and acceptance of APHIS programs and activities.

(5) Cooperating with the Office of Governmental and Public Affairs information activities of the Department.

(6) Coordinating with other APHIS offices on interrelated information management and dissemination activities.

(7) Administering, in concert with other APHIS programs, international information activities of APHIS.

(8) Planning, developing, and maintaining Agencywide internal communication systems.

(9) Drafting and administering policy guidelines on press contacts, photography, audiovisual, graphic design, radio-TV, and policy/editorial/graphics clearance for popular publications. Planning, providing leadership, and conducting a policy communication program to express and interpret APHIS policies in written form to Members of Congress, State and industry leaders, officials of foreign governments, and private citizens.

(10) Preparing timely and responsive replies to written inquiries through identifying accurate sources of information, determining Agency actions necessary, tailoring responses to the interests of the recipient, ensuring that they adhere to APHIS policies and are consistent with other responses, and securing the corroboration of appropriate Agency officials. Establishing and maintaining a system for the control of written inquiries referred by the Office of the Secretary or sent directly to the Agency.

(11) Preparing position papers regarding trends and patterns in APHIS program issues that are of special interest to the Administrator and Deputy Administrators.

(12) Providing editorial assistance to other staffs in the preparation of regulations, procedural manuals, articles for publication, and standard replies

to recurring questions posed by correspondence answered at the program level. Developing policies, coordinating and maintaining control on APHIS activities that fall within the scope of the Freedom of Information Act (FOIA) and Privacy Act. Making all initial determinations to deny information requested under the FOIA. Assuring that files coming within the scope of the Privacy Act are properly identified, used, and safeguarded.

[45 FR 8564, Feb. 8, 1980, as amended at 46 FR 3816, Jan. 16, 1981; 46 FR 7266, Jan. 23, 1981; 47 FR 19961, May 10, 1982; 47 FR 25001, June 9, 1982; 47 FR 27243, June 24, 1982; 47 FR 44537, Oct. 8, 1982; 47 FR 47229, Oct. 25, 1982; 47 FR 57908, Dec. 29, 1982; 48 FR 3714, Jan. 27, 1983; 49 FR 3443, Jan. 27, 1984; 49 FR 19621, May 9, 1984; 49 FR 38529, Oct. 1, 1984; 50 FR 32159, Aug. 9, 1985]

§ 371.3 Plant protection and quarantine.

The units of the National Program Planning Staff, the Professional Development Staff, National Programs, and International Programs, under the administrative direction of the Administrator and the functional and technical direction of the Deputy Administrator for Plant Protection and Quarantine are responsible for Plant Protection and Quarantine as follows:

(a) *National Program Planning Staff.* The National Program Planning Staff is responsible for:

(1) Participating with the Deputy Administrator, PPQ, in the overall planning and formulation of all policies, programs, and activities of the program.

(2) Planning, providing leadership, administering the development and evaluation of programs; establishing standards, regulations, and model laws, developing methods and procedures, and providing other scientific and technical support for PPQ programs and activities.

(3) Supervising, directing, coordinating, and integrating activities of subordinate staffs, offices, and laboratories.

(4) Coordinating and directing all emergency actions against new pest outbreaks, mobilizing and utilizing existing PPQ line and staff resources.

(b) *Professional Development Staff.* The Professional Development Staff is responsible for:

(1) Participating with the Deputy Administrator, PPQ, in the planning and formulation of all training policies, programs, and activities in PPQ programs.

(2) Identifying and evaluating staff development and training needs in PPQ.

(3) Planning and developing, providing leadership, and administering technical training in biological and related fields.

(4) Providing training of foreign participants.

(5) Maintaining liaison with professional and technical institutions.

(6) Providing leadership in developing and implementing PPQ safety and health program.

(7) Participating with the Human Resources Division in the development of agencywide training policies and programs such as executive and managerial development, supervisory training, administration and clerical training, orientation training, safety, and related activities.

(c) *National Programs.* National programs are responsible as follows:

(1) Participating with the Deputy Administrator, PPQ, in the overall planning and formulation of all policies, programs, and activities.

(2) Providing leadership and direction in planning, developing, budgeting, staffing, and implementing the programs through four Regional Directors for all phases of domestic program activities in PPQ.

(3) Planning, providing leadership, and coordination of PPQ programs and activities within the four regions to protect the Nation's agricultural resources from harmful plant pests, and preventing the entry of such plant pests and animal diseases into the United States or their spread in foreign commerce. (Activities relating to animal diseases are concerned with import and export of animal products and byproducts.)

(4) Developing and maintaining cooperative relationships and programs with other Federal agencies, State and local governments, and industry with regard to plant protection activities and programs designed to protect farm crops and other valued plant life from

harmful insects, nematodes, diseases, and noxious weeds.

(d) *International Programs.* International Programs are responsible as follows:

(1) Participating with the Deputy Administrator, in the overall planning and formulation of all policies, programs, and activities of PPQ.

(2) Providing leadership and direction in planning, developing, budgeting, staffing, and implementing the programs through three Regional Directors for all phases of foreign (off shore) program activities in PPQ.

(3) Keeping Department and other U.S. agencies currently informed of pest and pathogen development in foreign areas, including outbreaks and epidemics, recent advances in control methodology, and other newly developed information on plant pests.

(4) Providing scientific and technical expertise to U.S. agencies and foreign plant protection organizations or their agencies which wish to expedite the movement of agricultural exports and imports through improved phytosanitary practices.

(5) Providing liaison and participating with U.S. agencies, specifically FAS and State (AID) and National governments and nongovernment organizations, such as FAO, in foreign countries on plant protection and quarantine matters.

(6) Coordinating assignments of PPQ personnel to meet overseas technical needs, coordinating foreign research and methods development, and providing for USDA (PPQ) representation internationally.

[45 FR 8564, Feb. 8, 1980, as amended at 47 FR 44538, Oct. 8, 1982; 50 FR 2661, Jan. 18, 1985]

§ 371.4 Veterinary services.

National Program Planning Staffs, Professional Development Staff, National Veterinary Services Laboratories, Animal Health Programs, National Brucellosis Eradication Program, and International Programs under the administrative direction of the Administrator and the functional and technical direction of the Deputy Administrator, VS are responsible as follows:

(a) *National Program Planning Staffs.* The units of the National Program Planning Staff:

(1) Participate with the Deputy Administrator, VS, in the overall planning and formulation of all VS policies, programs, and activities.

(2) Plan, provide leadership, administer the development and evaluation of programs, establish standards, regulations and model laws, develop methods and procedures, and provide other scientific and technical support for the VS programs and activities.

(3) Supervise, direct, coordinate, and integrate activities of subordinate staffs.

(b) *Professional Development Staff.* The Professional Development Staff:

(1) Participates with the Deputy Administrator, VS, in the planning, formulation, and evaluation of all VS training policies, programs, and educational activities.

(2) Identifies and evaluates staff development and training needs in Veterinary Services programs.

(3) Plans and develops, provides leadership, and administers programs for technical and professional development in veterinary medicine and related fields.

(4) Provides for training of foreign participants.

(5) Administers the veterinary accreditation program, including the development of policies, procedures, and applicable regulations.

(6) Maintains liaison with veterinary medical and technical institutions.

(7) Plans and develops communication support media for veterinary services and related training programs.

(8) Participates with the Human Resources Division in the development of agencywide training policies and programs such as executive and managerial development supervisory training, administration and clerical training, and related activities.

(c) *National Veterinary Services Laboratories.* The units of the National Veterinary Services Laboratories:

(1) Participate with the Deputy Administrator, VS, in the overall planning and formulation of all policies, programs, and activities of VS as they affect laboratory and testing services.

(2) Plan, provide leadership, coordinate, and direct a laboratory support and diagnostic services program to the VS animal disease control and eradication programs; and a laboratory support program to the VS biologics program regulating the production and marketing of veterinary biologics in interstate and international commerce.

(3) Supervise, direct, coordinate, and integrate activities of subordinate laboratories.

(d) *National Brucellosis Eradication Program.* The National Brucellosis Program:

(1) Participates with the Deputy Administrator, VS, in the overall planning and formulation of all policies, programs, and activities of VS as they affect the national effort to eradicate brucellosis.

(2) Carries the same authority as the Deputy Administrator over both line and staff on day-to-day matters concerned with brucellosis.

(3) Provides national leadership in developing, coordinating, and integrating the National Brucellosis Eradication Program with other Federal, State, and industry agencies.

(e) *Animal Health Programs.* Animal Health Programs are responsible as follows:

(1) Participating with the Deputy Administrator, VS, in the overall planning and formulation of all VS policies, programs, and activities.

(2) Planning and providing leadership and coordination of Veterinary Services programs and activities within the five regions to protect the health of livestock, poultry, and other valued animal life through the detection, control and/or eradication of animal diseases and parasites; providing program leadership for the welfare and humane treatment of certain animals; directing the enforcement of quarantines governing the importation and exportation of live animals, semen, eggs and other live animal tissues and specimens; and the inspection, investigation, and enforcement of the production, testing and marketing of veterinary biologics by licensed establishments.

(3) Plans and provides leadership to develop Emergency Programs full-time staff and standby field units capable of controlling and eradicating any exotic disease or pest which might threaten the U.S. livestock and poultry industries.

(4) Administering programs to control and eradicate exotic diseases and pests of livestock and poultry when such programs are declared a national emergency by the Secretary of Agriculture.

(5) Cooperating with other Federal agencies including the Department of Defense, State agencies, and private agencies, in developing the knowledge necessary to successfully cope with exotic diseases and pests which may constitute a threat to the U.S. livestock and poultry industries.

(6) [Reserved]

(7) Maintaining a national center equipped with a data bank containing the technical information on all exotic diseases and pests which may threaten the U.S. livestock and poultry industries.

(8) Coordinating the inputs from other agencies into the National effort to cope with exotic as well as domestic disease problems affecting the U.S. livestock and poultry industries.

(f) *International Programs.* International Programs are responsible as follows:

(1) Participating with the Deputy Administrator, VS, and other agency officials in the overall planning and formulation of all policies, programs, and activities as they relate to the International Programs.

(2) Planning, coordinating, and providing leadership to VS international endeavors which involve cooperative animal disease programs and liaison activities to aid U.S. trade opportunities.

(3) Developing specific plans and programs acceptable to the United States and concerned foreign governments to prevent, control, and eradicate foot-and-mouth disease, screwworms, Venezuelan Equine Encephalomyelitis, Exotic Newcastle disease, cattle tick fever, and any other livestock disease which threatens the livestock or related industries of the United States with serious disruption and economic loss.

(4) Establishing and maintaining contacts with foreign government veterinary officials regarding the import and export standard procedures used in their commerce with the United States.

(5) As governed by the terms of cooperative agreements and other agreements entered into jointly, directing with the foreign government concerned, the execution of plans and programs for either the prevention, control, and eradication of designated animal disease spreading pests or ease in import and export affairs.

(6) Coordinating and overseeing the development of appraisal and valuation standards for livestock by species and class as well as planning for continuing field surveys for vesicular and other foreign animal diseases.

(7) Developing and coordinating the development of informational services designed to provide current, accurate, and constructive information to the public, foreign governments involved and interested U.S. agencies on program objectives, status, and accomplishments.

(8) Working with and keeping apprised of scientific investigations conducted by research and development scientists involved in developing and improving existing methods of control and eradication of animal diseases not present in the United States.

(9) Working closely with American Ambassadors in foreign countries in which cooperative animal disease programs or import-export agreements are planned or implemented and keeping them fully informed on program status and progress.

(10) Representing the Secretary of Agriculture, Administrator, and Deputy Administrator, VS, in meetings and contacts with representatives of concerned foreign governments, members of Congress, and other officials interested in animal disease eradication programs and international commerce.

[45 FR 8564, Feb. 8, 1980, as amended at 47 FR 44538, Oct. 8, 1982; 48 FR 3714, Jan. 27, 1983]

§ 371.5 Administrative management.

The Budget and Accounting Division, Human Resources Division, Administrative Services Division, Information Systems and Communications Division, Resource Management Systems and Evaluation Staff and the Field Servicing Office under the direction of the Deputy Administrator for Management and Budget are responsible as follows:

(a) *Budget and Accounting Division.*

(1) Participating with the Deputy Administrator for Management and Budget in the overall formulation of all administrative management policies, programs, and activities for Animal and Plant Health Inspection Service (APHIS), Agricultural Cooperative Service (ACS), and Office of Transportation (OT).

(2) Planning, providing staff leadership and administering the budget and related programs and the fiscal and related management programs necessary to meet requirements of programs and administrative activities in APHIS, ACS, and OT.

(3) Assisting in formulating current and long-range policies and programs relating to Agency budget and multiyear programs and financial plans and coordinating the development of the documentation of such programs and plans. In this connection, also directing economic studies utilizing cost benefit anlayses, and other analytical and review techniques in pursuing multiyear planning, programming, and evaluation of APHIS activities and program as measured against stated goals.

(4) Assisting in developing the accounting and related financial systems necessary for APHIS, ACS, and OT. Developing procedures and instructions to implement the systems, and maintaining these systems.

(5) Planning and providing for the selection, documentation, negotiation, and implementation of cooperative agreements.

(b) *Human Resources Division.* (1) Participating with the Deputy Administrator for Management and Budget in the overall formulation of all administrative management policies, programs and activities of the Animal and Plant Health Inspection Service (APHIS), Federal Grain Inspection Service (FGIS), Agricultural Cooperative Service (ACS), Packers and Stockyards Administration (P&SA), and Office of Transportation (OT).

(2) Planning, providing staff leadership and assistance to managers and program leaders of APHIS, FGIS, ACS, P&SA and OT in the areas of EEO and Civil Rights, organization, position management, performance appraisal, position classification, salary and wage administration, recruitment and placement, employee relations, and labor management relations. Planning and providing staff leadership and assistance to managers and supervisors of APHIS, FGIS, ACS, P&SA and OT in the areas of employee development and training pertaining to executive and managerial development, supervisory, administrative and clerical training and related activities.

(3) Providing leadership and coordination for activities associated with APHIS international programs; developing, implementing, and evaluating policies and procedures relating to the Foreign Service personnel system in APHIS.

(4) Providing leadership to and coordination of personnel management review and evaluation activities throughout APHIS to ensure that personnel management programs are effective, efficient, and in compliance with laws, regulations and policy.

(5) Providing certain operating personnel services for APHIS, FGIS, ACS, P&SA and OT, and Agricultural Marketing Service (AMS) as agreed upon by APHIS and each agency.

(c) *Administrative Services Division.*

(1) Participating with the Deputy Administrator for Management and Budget in the overall formulation of administrative management policies, programs, and activities of the Animal and Plant Health Inspection Service (APHIS), Federal Grain Inspection Service (FGIS), Agricultural Cooperative Service (ACS), Packers and Stockyards Administration (P&SA), Office of Transportation (OT), and Agricultural Marketing Service (AMS).

(2) Planning for and providing staff leadership and operating administrative services and assistance to managers and supervisors in: real and personal property management and utilization; procurement of supplies, equipment, and services through competitive and noncompetitive procedures or from established contract sources, safety, health and environmental concerns; development, and control of forms, reports, records security, printing and distribution; mail and shuttle service; and directives management. Providing overall direction and coordination for the design and construction of facilities.

(d) *Information Systems and Communications Division.*(1) Participating with the Deputy Administrator for Management and Budget in the overall formulation of ADP policies and programs in support of APHIS programs.

(2) Planning, directing, and conducting studies to determine the feasibility of applying automated data systems and techniques to Agency operations. Determining the advantages of using automated systems and processing in terms of economic and other considerations.

(3) Developing and designing automated data systems, standards, and new and improved methods and techniques for translation into basic program structures relative to systems analysis, computer programming and equipment utilization and capabilities. Assisting Agency managers in determining informational requirements. Analyzing types and volume of data involved, cost of present methods and cost and other advantages of applying electronic data processing.

(4) Developing computer programs to meet objectives of specific programs and projects, including all levels of electronic data processing documentation and the testing or "debugging" of machine programs. Designing procedures and advising in the development of source documents to facilitate the conversion of data from source documents to machine media.

(5) Reviewing and evaluating existing systems and computer programs and implementing improvements.

(6) Planning, managing and/or coordinating agency policies, methods, and procedures for telecommunications, records management, micrographics and correspondence management.

(e) *Resource Management Systems and Evaluation Staff.* (1) Participating with the Deputy Administrator for Management and Budget in the overall formulation of administrative and management policies, programs, and activities of APHIS.

(2) Developing, implementing, coordinating, and directing a Resource Management Evaluation System, including onsite reviews of domestic and international programs, with the objective of determining the use of resources in terms of efficiency, effectiveness, and compliance with appropriate laws, rules, regulations, and agreements. Assesses delivery of administrative services to APHIS programs to determine their impact on program mission accomplishment.

(3) Collecting, analyzing, evaluating, and reviewing management information and data, including critical incidents, to assist management in formulating current and long-range policies, procedures, and systems and providing staff assistance to the Deputy Administrator in the management of OIG and GAO liaison activities and the analysis of OIG and GAO reports.

(4) Carrying out these and related projects or studies with the assistance of functional or program specialists from other organizations in order to assure adequate staffing, a proper mix of expertise, and acceptance of work products.

(f) [Reserved]

(g) *Field Servicing Office.* (1) Participating with the Deputy Administrator for Management and Budget in the overall formulation of personnel, financial and administrative services policies and programs for the Animal and Plant Health Inspection Service (APHIS), Federal Grain Inspection Service (FGIS), Agricultural Cooperative Service (ACS), Packers and Stockyards Administation (P&SA), and Office of Transportation (OT).

(2) Within the provisions of applicable policies, procedures and laws, providing personnel, financial and administrative services to personnel in the Agricultural Marketing Service, APHIS, FGIS, ACS, P&SA and OT.

(3) Participating in planned management reviews. Providing assistance and advice to program officials and supervisory personnel concerning personnel, financial, and administrative problems. Providing guidance on the implementation of policies, procedures and regulations.

[45 FR 8564, Feb. 8, 1980, as amended at 47 FR 19962, May 10, 1982; 47 FR 57908, Dec. 29, 1982; 48 FR 56731, Dec. 23, 1983; 49 FR 19621, May 9, 1984; 49 FR 38530, Oct. 1, 1984; 50 FR 32160, Aug. 9, 1985; 50 FR 47205, Nov. 15, 1985]

§ 371.6 Delegations of authority.

(a) *Associate Administrator.* The Associate Administrator is hereby delegated the authority to perform all the duties and to exercise all the functions and powers which are now, or which may hereafter be, vested in the Administrator, including the power of redelegation except where prohibited, and including authority reserved to the administrator outlined in Section 16 below. The Associate Administrator is also authorized to act for the Administrator in the absence of the Administrator or from time to time when the Administrator is not available.

(b) *Deputy Administrators*—(1) *General.* The Deputy Administrator, PPQ, the Deputy Administrator, VS, the Deputy Administrator for Management and Budget, and the officers they designate—with prior specific approval of the Administrator—to act for them, are hereby delegated the authority, severally, to perform all the duties and to exercise all the functions and powers which are now, or which may hereafter be vested in the Administrator (including the power of redelegation except when prohibited) except such authority as is reserved to the Administrator. Each Deputy Administrator shall be responsible for the programs and activities of the Animal and Plant Health Inspection Service herein or hereafter assigned to such Deputy Administrator.

(2) *Specific.* The Deputy Administrator, PPQ, and the Deputy Administrator, VS, are specifically delegated the authority to issue administrative instructions respectively, for Plant Protection and Quarantine and for Veterinary Services, prescribing commuted traveltime allowances to be paid to inspectors called to perform inspections and necessary auxiliary services after

normal working hours or on holidays, when such services come within the scope of the Act of August 28, 1950 (7 U.S.C. 2260).

(c) *Director, Legislative and Public Affairs Staff.* The Director of the Legislative and Public Affairs Staff is hereby delegated authority in connection with the respective functions assigned to that staff, to perform all the duties and to exercise all the functions and powers which are now or which may hereafter be vested in the Administrator (including the power of redelegation except when prohibited) except such authority as is reserved to the Administrator.

(d) *Plant Protection and Quarantine, Veterinary Services and Administrative Management.* The Directors of the National Program Planning Staffs, Professional Development Staffs, National Programs, International and Emergency Programs, Animal Health Programs, International Programs, Emergency Programs, National Brucellosis Eradication Programs, and the National Veterinary Services Laboratories are hereby delegated authority in connection with the respective functions herein assigned to each of them, to perform all the duties and exercise all the functions and powers which are now, or which may hereafter be, vested in the Administrator except the authorities reserved to the Administrator and the Deputy Administrators. The Directors of Budget and Accounting, Human Resources, and Administrative Services Divisions, Information Systems and Communications DIvision, Management Systems Analyses and Evaluation Staffs, and the Field Servicing Office are hereby delegated authority in connection with the respective functions herein assigned to them, to perform all the duties and to exercise all the functions which are now, or which may be, vested in the Administrator except such authority as is reserved to the Administrator and Deputy Administrators.

(e) *Area Veterinarians in Charge, Veterinary Services.* Area Veterinarians in Charge of Veterinary Services programs are hereby delegated authority

(1) To issue exemptions to facilities or premises from requirements of section 4 of the Swine Health Protection Act pursuant to section 4(b) of the Act (7 U.S.C. 3803), and

(2) To issue permits to operate facilities to treat garbage pursuant to section (5)(a) of the Swine Health Protection Act (7 U.S.C. 3804).

[45 FR 8564, Feb. 8, 1980, as amended at 48 FR 6523, Feb. 14, 1983; 48 FR 50295, Nov. 1, 1983; 49 FR 19621, May 9, 1984; 50 FR 32160, Aug. 9, 1985; 50 FR 47205, Nov. 15, 1985]

§ 371.7 Concurrent authority and responsibility to the administrator.

(a) No delegation or authorization prescribed herein shall preclude the Administrator or each Deputy Administrator, from exercising any of the powers or functions or from performing any of the duties conferred upon them herein, and any such delegation or authorization is subject at all times to withdrawal or amendment by the Administrator, and in their respective fields, by each Deputy Administrator. The Officers to whom authority is delegated herein shall: (1) Maintain close working relationships with the officers to whom they report, (2) keep them advised with respect to major problems and developments, and (3) discuss with them proposed actions involving major policy questions or other important considerations or questions including matters involving relationships with other Federal agencies, other agencies of the Department, other Divisions and Staffs or offices of the agency or other governmental or private organizations or groups.

(b) *Prior authorizations and delegations.* All prior delegations and redelegations of authority relating to any functions, program, or activity covered by the Statement of Organization, Functions and Delegations of Authority, shall remain in effect except as they are inconsistent herewith or are hereafter amended or revoked. Nothing herein shall affect the validity of any action heretofore taken under prior delegations or redelegations of authority or assignments of functions.

[45 FR 8564, Feb. 8, 1980]

§ 371.8 Reservation of authority.

There is hereby reserved to the Administrator, or to the individual designated to act for the Administrator, the following:

(a) The initiation, change, or discontinuance of major program activities.

(b) The issuance of regulations pursuant to law, except as provides in § 371.2 (c) and (d).

(c) The transfer of functions between Deputy Administrators.

(d) The transfer of funds between Deputy Administrators.

(e) The transfer of funds between work projects within each Deputy Administrator's area, except those not exceeding 10 percent of base funds or $50,000 in either work project, whichever is less.

(f) The approval of any change in the formal organization including a section, its equivalent, or higher level.

(g) The making of recommendations to the Department concerning establishment, consolidation, change in location, or abolishment of (1) regional, State area, and other field headquarters offices, and (2) any region or other program area that involves two or more States, or that crosses State lines, except PPQ Districts which are under the authority of the Deputy Administrator, PPQ.

(h) Authority to establish, consolidate, or change a location or abolish any field office or change program area boundaries not included in (g) above.

(i) Approval of all appointments, promotions, and reassignments in GS-14 and above.

(j) Authorization for foreign travel and attendance at international and foreign meetings including those held in the United States.

(k) Approval of all appointments, promotion, and reassignments of employees to foreign countries.

(l) Approval of budget estimates.

(m) Authority to determine the circumstances under which commuted traveltime allowances may be paid to employees performing inspection and necessary auxiliary services after normal working hours or on holidays, when such services come within the scope of the Act of August 28, 1950 (7 U.S.C. 2260).

[45 FR 8564, Feb. 8, 1980, as amended at 48 FR 50295, Nov. 1, 1983]

§ 371.9 Availability of information and records.

Any person desiring information or to make submittals or requests with respect to the programs and functions of the Agency should address a request to the appropriate Deputy Administrator, APHIS, U.S. Department of Agriculture, Washington, DC 20250. The availability of information and records of the agency and its offices is governed by the rules and regulations as published in the Code of Federal Regulations, Title 7, Chapter III, Part 370.

[45 FR 8564, Feb. 8, 1980]

PART 380—RULES OF PRACTICE GOVERNING PROCEEDINGS UNDER CERTAIN ACTS

Subpart A—General

Sec.
380.1 Scope and applicability of rules of practice.

Subpart B—Supplemental Rules of Practice

380.10 Stipulations.

AUTHORITY: Sec. 1, 37 Stat. 315, as amended; sec. 5, 37 Stat. 316, as amended; sec. 7, 37 Stat. 317, as amended; secs. 8 and 10, 37 Stat. 318, as amended; sec. 9, 37 Stat. 318; sec. 10, 45 Stat. 468; sec. 15, 45 Stat. 565; 56 Stat. 40, as amended; secs. 103 and 105, 71 Stat. 32, as amended; sec. 106, 71 Stat. 33; sec. 108, 71 Stat. 34, as amended; sec. 11(a), 87 Stat. 897; sec. 4, 95 Stat. 1074; 7 U.S.C. 149, 150bb 150dd, 150ee, 150gg, 154, 159-164a, 167, 16 U.S.C. 1540(a), 3373 (a) and (b), 7 CFR 2.17, 2.51, 371.2(c).

Subpart A—General

§ 380.1 Scope and applicability of rules of practice.

The Uniform Rules of Practice for the Department of Agriculture promulgated in Subpart H of Part 1, Subtitle A, Title 7, Code of Federal Regulations, are the Rules of Practice applicable to adjudicatory, administrative proceedings under the following statutory provisions:

Act of August 20, 1912, commonly known as the Plant Quarantine Act, section 10, as amended (7 U.S.C. 163, 164),

Act of January 31, 1942, as amended (7 U.S C. 149),

Federal Plant Pest Act, section 108, as amended (7 U.S.C. 150gg),

Endangered Species Act Amendments of 1973, as amended, section 11(a) (16 U.S.C. 1540 (a)), and

Lacey Act Amendments of 1981, section 4 (a) and (b) (16 U.S.C. 3373 (a) and (b)).

In addition, the Supplemental Rules of Practice set forth in Subpart B of this part shall be applicable to such proceedings.

[49 FR 22247, May 29, 1984]

Subpart B—Supplemental Rules of Practice

§ 380.10 Stipulations.

(a) At any time prior to the issuance of a complaint seeking a civil penalty under any of the Acts listed in § 380.1, the Administrator, in his discretion, may enter into a stipulation with any person in which:

(1) The Administrator or the Administrator's delegate gives notice of an apparent violation of the applicable Act, or the regulations issued thereunder, by such person and affords such person an opportunity for a hearing regarding the matter as provided by such Act;

(2) Such person expressly waives hearing and agrees to pay a specified penalty within a designated time; and

(3) The Administrator agrees to accept the specified penalty in settlement of the particular matter involved if the penalty is paid within the designated time.

(b) If the specified penalty is not paid within the time designated in such a stipulation, the amount of the stipulated penalty shall not be relevant in any respect to the penalty which may be assessed after issuance of a complaint.

[48 FR 33468, July 22, 1983]

PARTS 381—399 [RESERVED]

FINDING AIDS

A list of CFR titles, subtitles, chapters, subchapters and parts and an alphabetical list of agencies publishing in the CFR are included in the CFR Index and Finding Aids volume to the Code of Federal Regulations which is published separately and revised annually.

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The Director of the Federal Register has approved under 5 U.S.C. 552(a) and 1 CFR Part 51 the incorporation by reference of the following publications. For more information on incorporation by reference, see the preliminary pages of this volume.

7 CFR CHAPTER III (PARTS 300–399)
ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

	7 CFR
Agriculture Department	
Regulatory Support Staff, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, USDA, Room 635, Federal Bldg., Hyattsville, MD 20782	
Plant Protection & Quarantine Programs Treatment Manual–Jan. 1976 (revised as of Dec. 1980).	330.3(a); 301.48–1; 331.7(a)

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